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Congressional Record

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Wednesday, June 29, 1988*

The Senate met at 9:30 a.m., and was called to order by the Honorable PAUL SIMON, a Senator from the State of Illinois.

PRAYER

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

Let us pray:

*"Blessed is the nation whose God is the Lord * * *."*—Psalm 33:12.

Eternal God, Lord of Heaven and Earth, as the Senators face a busy Independence Day recess, with speeches, meetings with constituents, handling local affairs—supply them with all the spiritual, mental, physical resources necessary. Help them to make time for family, time to be rested and refreshed.

"Our fathers' God, to Thee,
Author of liberty,
To Thee we sing:
Long may our land be bright
With freedom's holy light;
Protect us by Thy might,
Great God, our King."

The Lord bless thee, and keep thee: The Lord make His face shine upon thee, and be gracious unto thee: The Lord lift up His countenance upon thee, and give thee peace.—Numbers 6:24-26. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 29, 1988.

To the Senate:

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

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

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

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

INDEPENDENCE DAY

Mr. BYRD. Mr. President, I thank the Chaplain for his excellent Independence Day prayer. He recognized in that prayer the need for spiritual guidance, and spiritual strength, and the necessity for reflection by Americans upon the spiritual support that has caused our Nation to grow and to prosper and to be strong.

BREATHES there the man with soul so dead
Who never to himself hath said,
This is my own, my native land!
Whose heart hath ne'er within him burned,
As home his footsteps he hath turned
From wandering on a foreign strand?
If such there breathe, go, mark him well;
For him no minstrel raptures swell;
High though his titles, proud his name,
Boundless his wealth as wish can claim,
Despite those titles, power, and pelf,
The wretch, concentrated all in self,
Living, shall forfeit fair renown,
And, doubly dying, shall go down
To the vile dust from whence he sprung,
Unwept, unhonored, and unsung.

Independence Day is the birthday of the United States of America. It is celebrated on July 4 each year in all States and territories of the United States. Independence Day is the anniversary of the day on which the Declaration of Independence was adopted by the Continental Congress—July 4, 1776.

The founders of the new Nation considered Independence Day an important occasion for rejoicing. John Adams said:

I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward for evermore.

Independence Day was first observed in Philadelphia on July 4, 1777. Bands played, colorful bunting was displayed, and the people rejoiced. Independence Day has been celebrated all over the country from that day to the present. The separate States and the territories set aside July 4 as a patriotic holiday.

Early Independence Days were occasions for shows, games, sports, military music, and fireworks. Fireworks and the firing of guns and cannons caused hundreds of deaths and thousands of injuries each year. In the early 1900's, many people began to plead for a "safe and sane Fourth." As a result, many cities and several States passed laws forbidding the sale of fireworks. Some cities permitted fireworks, but hired trained men to explode them at a community celebration in the evening. Communities began to stress the patriotic nature of the holiday and communities all over this country, Mr. President, still stress the patriotic nature of the holiday. We have our parades in West Virginia, and all over West Virginia the flags will fly on the Fourth.

May God bless America:

My country, 'tis of thee,
Sweet land of liberty,
Of thee I sing:
Land where my fathers died,
Land of the pilgrims' pride,
From every mountainside
Let freedom ring.

* * * * *

Our father's God to Thee,
Author of liberty,
To Thee we sing.
Long may our land be bright
With freedom's holy light;
Protect us by thy might,
Great God, our King!

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

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

BICENTENNIAL MINUTE

JUNE 29, 1852: HENRY CLAY DIES

Mr. DOLE. Mr. President, 136 years ago today, on June 29, 1852, Senator Henry Clay died of tuberculosis at age 75 in Washington, DC.

As one biographer has written, "No man in American public life has had more ardent supporters or more bitter enemies than Clay, and no one has depended more for his happiness on the friendship of the people." known by many as the "Great Compromiser," Clay played a prominent part in directing and influencing both domestic and foreign policy during his 46 years of public service working in law in his early years, Clay earned a reputation for being a spirited advocate and supporter of the West. The people of Kentucky embraced him early and the State legislature elected him to the Senate at the age of 29. While beginning and ending his political career as a U.S. Senator, he also served in the House—becoming Speaker on the first day of his first term, and as Secretary of State during the administration of John Quincy Adams.

Clay's impressive funeral reflected the Nation's profound sorrow at his passing. It began as a simple procession from his hotel on Pennsylvania Avenue to the Capitol. Here, his coffin was carried into the old Senate Chamber for funeral service in the presence of the President, the Vice President, the Cabinet, and Members of the Senate and House. Then his coffin was placed in the Capitol's rotunda. Clay thus became the first American so honored. On July 2, his body was taken to Philadelphia where, after a torchlight parade, it lay in Independence Hall. His remains were then taken to five other major cities, before burial in Lexington, KY.

Five other Americans have lain in state in the Capitol rotunda in tribute to their service as U.S. Senators. They are Charles Sumner, John A. Logan, Robert Taft, Everett Dirksen, and most recently Hubert Humphrey.

Mr. President, I would, following the Senator from Wisconsin, yield time to the Senator from South Dakota; 3 minutes to the Senator from South Dakota, 2 minutes to the Senator from Kentucky.

DEMOCRATIC PLATFORM SHOULD NOT PUSH FOR MORE MILITARY SPENDING

Mr. PROXMIRE. Mr. President, on June 25 the New York Times reported that a panel of prominent Democrats has just urged our party to advocate in its platform "a comprehensive national security plan that would include steady increases in military spending, a reasonable program to build a shield against nuclear missiles and continued aid to Nicaraguan resistance forces." In the words of the late Louis B. Mayer, "Include me out!" The New York Times article was written by the highly responsible Richard Halloran. It appeared in the same edition of the New York Times that carried another story, this one by the Associated Press with the following lead:

> The United States today rebuffed a Soviet proposal for an exchange of data on conventional forces in Europe, calling it a "fruitless" exercise that would perpetuate a 13 year stalemate.

The article reported that at the United Nations last Thursday, Lt. Gen. Konstantin F. Mikhailov, Deputy Chief of the Disarmament Directorate of the Soviet Foreign Ministry, repeated Moscow's willingness to make greater reductions than the West in some types of conventional forces.

Mr. President, how ridiculous can we Democrats get? I love my party. I owe a great deal to my party. I hope we win the Presidential election next November, although in view of the pending economic disaster facing our country, such a victory could well keep our party out of power for the next 40 years. But strongly as I support our party and grateful as I am for the fullsome way the party has supported me for the past 36 years, I cannot for the life of me understand why the Democratic Party should select a time when the Soviet Union is willing to discuss seriously mutual conventional arms reduction and is repeating its readiness to make greater reductions for the Warsaw Pact than is required for NATO is some types of conventional forces, and when our colossal Federal deficit is our No. 1 congressional crime, under all these circumstances why should the Democratic Party call for "steady increases in military spending"? Note carefully that these Democrats do not call for a steady increase in our military strength relative to the Soviet Union. They call for a steady increase in military spending.

Can we achieve a steady increase in military strength relative to the U.S.S.R. without increasing military spending? Of course, we can. We can do so in two ways. First, we can reduce the enormous waste in such far out military programs as SDI or star wars in favor of more intense research in less glamorous conventional weapons. We can and should kill the B–1B in favor of the Stealth Bomber. We can stop spending billions on stationary land based ICBM's in favor of mobile land or sea or air launched nuclear missiles. We can rely much more on our National Guard and Reserve that provides as much as 45 percent of our military strength at 5 percent of the cost. This would permit us to spend less on our regular military forces while building our military strength.

The second way we can build military strength vis-a-vis the Soviet Union with less spending is to take full and prompt advantage of the Soviet willingness to negotiate a mutual reduction of conventional forces with two requirements. First, we should push hard for the fulfillment of General Mikhailov's commitment to make greater reductions in some types of Soviet conventional forces than we make in our forces. Second, we should insist on the same thorough, meticulous verification procedures for the United States-U.S.S.R. treaty reducing conventional arms that we negotiated recently in the INF Treaty for intermediate nuclear weapons.

The other two proposed provisions for our platform are really outrageous. These "prominent Democrats" call for our country to finance "the building of a shield against nuclear missiles." Mr. President, if ever there were a discredited program it is this phoney "shield against nuclear weapons." Some day 30 or 40 or a hundred years from now we may develop directed energy weapons that can find and strike incoming Soviet nuclear tipped ICBM's. But, as almost everyone who has followed this development for more than a week or two knows, we are many years away from developing such weapons. When they are developed, they will be even more effective as offensive weapons capable of destroying civilian and military targets than they will be to seek and destroy invading IBM's. And the Soviets will follow our directed energy weapons with their own within a few years. After all, they have done exactly this with every strategic weapon we have deployed since the dawn of the nuclear age.

The final pledge proposed by these "prominent" Democrats is continued aid to the Nicarguan resistance forces. Mr. President, who are these Democrats speaking for? Year after year we have voted in the Congress on this issue and year after year I am proud to say that Democrats in the House and Senate have overwhelmingly opposed throwing money down this rat hole. These so-called freedom fighters are neither fighters nor are they for freedom. Oh, sure, Contra aid has wrecked the Nicaraguan economy. It has resulted in the killing of many women and children, the burning of many homes, the destruction of livestock and farm crops. But it has not achieved a single significant military objective. No military targets have been destroyed or even hit. For the Democratic Party to pledge additional millions of taxpayers dollars in such a fruitless and cruel endeavor would

make this Senator ashamed of his party.

Mr. President, why would "prominent" Democrats even consider such platform proposals? The answer appears in the statement of this group that declares; "When our party has strayed from this tradition—of strength and steadiness—we have lost elections." So that is the justification? Do we Democrats win the next election by saying we are willing to spend more money on the military than the Republicans? No way, Mr. President, every poll, time after time, has shown that for at least the past 3 years an overwhelming majority of the American people strongly oppose increased military spending. in fact, military spending is almost the only kind of major Government spending on which there is a solid American public consensus that we should slow down, and should not spend more. There is also a solid public consensus—of voters of all political persuasion against both SDI and aid to the Contras. May the so-called prominent Democrats not prevail when the Democratic Convention convenes at Atlanta next month.

CLARIFICATION OF REFERENCE TO ESTABLISHMENT OF COUNCIL ON COMPETITIVENESS

Mr. PROXMIRE. Mr. President, on June 16, 1988, I spoke here on the topic of the international competitiveness of U.S. economy. At that time, I referred to a new index on U.S. competitiveness and reported that it was the creation of Wharton Economic Forecasting Associates.

I have since learned that, while the Wharton Economic Forecasting Associates were instrumental in the collection of the data for the computation of the index, the Competitiveness Index was in fact the creation of the Council on Competitiveness. I ask that the RECORD of June 16, 1988, be corrected to show that the Council on Competitiveness was initiated, developed, and funded by the Council on Competitiveness.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the time shall be equally divided by the majority and minority leader on their designees. The Chair recognizes the Senator from Montana.

Mr. BYRD. Mr. President, I believe I am in control of the time on this side.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BYRD. And the minority leader is in control of the time on that side.

The ACTING PRESIDENT pro tempore. Yes.

Mr. BYRD. Mr. President, how much time would the distinguished Senator from Montana like to have?

Mr. MELCHER. Mr. Leader, I would like 7 minutes.

Mr. BYRD. All right. How much time remains to both leaders, Mr. President?

The ACTING PRESIDENT pro tempore. There is a total of 39 minutes, evenly divided.

Mr. BYRD. The Republican leader had some time of his own under the standing order. Does he wish to yield that time?

The ACTING PRESIDENT pro tempore. He has 7 minutes and 12 seconds under the standing order.

Mr. DOLE. I yield 4 minutes to the Senator from South Dakota and 3 minutes and 12 seconds to the Senator from Kentucky.

Mr. BYRD. All right. Then I will yield to the distinguished Senator from Montana and the distinguished Senator from North Dakota such time as they may require out of the time that I control.

THE DROUGHT

Mr. MELCHER. I thank the leader.

Mr. President, the worst drought since the 1930's is inflicting its severe toll on the country this year. A large part of the country is in drought. Much over half of the breadbasket of the world, here in the United States is in some degree of drought.

Today, at about 4:30 this afternoon, I shall be introducing a drought disaster bill. I invite all Senators to be in communication with us during the day to see whether or not they would like to cosponsor the bill. It will be a very broad bill because farmers, ranchers and main street business in drought areas are reeling. Economic recovery for rural America was just starting when this drought struck so much of our agricultural area throughout the country. To prevent economic disaster in drought areas, we must provide adequate emergency help. The bottom line is protecting farm and ranch incomes.

Now, I am going to list the parts of the bill:

First of all is guaranteed deficiency payment. It incorporates the Burdick bill that was introduced a couple of weeks ago, to guarantee deficiency payments on all failed production. I might briefly explain: if the average crop for a farmer was 30 bushels of wheat and only 10 bushels is harvested, the farmer would get the deficiency payment on the other 20 bushels at the announced projected deficiency payment—announced by the Secretary last spring. If they have crop insurance they get that payment also.

For cotton there has to be a special provision in the bill that will not require what is called "preventive planting." If planting is prevented because of drought or any other disaster, cotton producers will be eligible for what is known as 0-92.

For non-program crops, the same provisions as were in the 1986 drought disaster, which includes direct payments for those non-program crops in drought areas.

Third, the bill will remove the statutory requirement of milk producers suffering a further 50-cent reduction that is scheduled by law to go in effect January 1, 1989. And the reason for that is obvious. When there is drought the price of feed grains go up, the price of hay goes up. Those are the ingredients that must go into the milk cow in order to have milk production.

Fourth, there will be an extension of disaster credit.

Fifth, and this is a very important section in the bill, there will be emergency water assistance and broader water authority, with any identity. What do I mean by that? I mean the Secretary of Agriculture will be able to give assistance to delivery of water, either for livestock or for crops, on a broader basis than is available now under the present statutes. It is absolutely essential that we do this and make it effective immediately.

Sixth, transportation of livestock out of drought areas, if they can find forage; or hay, available in other areas. That authority will be given to the Secretary of Agriculture, much as is available now when the President proclaims a disaster and utilizes FEMA for that purpose.

Seventh, conservation reserve, where there is drought, will be opened for grazing.

Eighth, the bill will contain a sense-of-the-Senate resolution to continue strongly with the export programs, but those to be toned down, that is on exports, if there develops a national emergency for a specific commodity that would limit domestic supplies for U.S. consumers.

Ninth, the Secretary will be mandated to assist agribusiness in drought areas and report to Congress for whatever additional authority might be necessary for him in order to give main street agribusiness a chance to survive.

Tenth, we will broaden out the contiguous county eligibility authority of the Secretary of Agriculture so that it will be more workable, in this, the worst drought since the 1930's, that we are now facing.

Eleventh, and finally, the funding, we believe, will be available through the funds that are already budgeted for deficiency payments for all of the requirements that will be in the bill.

Now, Mr. President, I will be delighted to yield to my friend and colleague from North Dakota.

Mr. BURDICK. I want to especially thank my colleague from Montana for the work he has done in this very criti-

cal situation that faces the Midwest and the West. As the Senator has stated, this is perhaps the worst drought we have had in the last 50 years or more. It is absolute devastation is some parts of my State. I want to thank the Senator from Montana for coming forth with this omnibus bill. And I want also to thank him for incorporating into the bill the section I was working on regarding deficiency payments.

I think the bill is well balanced. I think it is absolutely necessary and I hope the Senators will give their support for this type of legislation in this time of national need.

Mr. MELCHER. Mr. President, I want to conclude by inviting all Senators to review what provisions are in the bill to see whether they would like to be cosponsors of the bill. It will be introduced about 4:30 this afternoon. I make this announcement now to allow every Senator that is interested to contact us, to see what provisions are in the bill, and offer suggestions to us on how best to have the bill drafted. We would like to have a very broad, bipartisan approach to this bill. That is the purpose of making the announcement this morning, so all Senators will be on alert.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized for 4 minutes.

Mr. PRESSLER. Mr. President, I want to commend my friends from Montana and North Dakota for their remarks on the drought. I have spoken on the drought before, and made a drought tour in South Dakota last weekend.

I want to speak on a specific problem that may arise if the drought continues; that is, grasshoppers and locusts. Mr. President, I would inform our distinguished colleagues that the possibility of a serious problem with grasshoppers and locusts exists. The grasshopper is an insect that eats certain types of plants. Crops most commonly affected are alfalfa, corn and small grains. Various species of grasshoppers eat different things. A female grasshopper will lay between 2 and 120 eggs in the fall.

The grasshopper lays the eggs in a hole in the ground. The eggs are contained in a waterproof pod and in the spring, the eggs hatch. The young grasshopper has wings, and during the next 40 to 60 days, the grasshopper grows, maturing through a five- or six-stage molting process in which the grasshopper sheds its skin to allow it to grow.

There are several species of grasshoppers. The most common grasshopper in South Dakota and the western United States is the lubber grasshopper, a species of short-horn grasshopper, which is the biblical locust.

Mr. President, what can be done to head it off? First of all, grasshoppers normally feed on grass in conservation reserve acres, rangeland, or other areas. With the drought, they are forced to move into nearby small grain or corn fields. Grasshoppers can cause extensive damage in already-stressed crops.

To save their crops, farmers and ranchers must spray their fields. That can be very expensive. Malathion and palavthion are two of the commonly used pesticides. The cost of aerial spraying is about $5.50 per acre, and a field may have to be sprayed several times during the summer. So you can see the expense involved.

The grasshopper is especially a problem for small grain farmers where crops will be ready for harvest in a week or two. However, these pesticides require a certain amount of time to pass before a crop can be harvested. These farmers must decide not only if it is economical to spray a poor crop, but also what type of pesticide to use. If it does rain, farmers can still get a corn or soybean crop, where they do not spray, much of the crop may be eaten by grasshoppers. That puts farmers in a dilemma.

Ranchers commonly spray for grasshoppers. The Animal and Plant Health Inspection Service can cost-share with ranchers to spray grasshoppers. However, the drought has forced most ranchers to sell their livestock. They are not in a financial position to spray grasshoppers. Why would a rancher with no cattle on his land want to spray for grasshoppers? This creates problems this year and potentially a greater problem next year since the number of grasshopper eggs laid this fall will increase.

The point is, Mr. President, if the drought continues we could have a real problem with grasshoppers and locusts. Counties and States may have to expand programs to assist farmers and ranchers control grasshoppers. The Federal Government may have to consider expanding grasshoppers control programs. It would not be as high a priority as direct drought relief but action could prevent a major problem in the future.

Biblically and historically, grasshoppers and locusts have been dealt with in a number of ways. The Mormons near Salt Lake City were rescued by seagulls when their crops were overrun by grasshoppers. Today in Salt Lake City, there is a huge statue of a seagull commemorating their saving the crops from grasshoppers and locusts.

In the Old Testament the Pharaoh had no defense against the grasshoppers and locusts. Locusts are mentioned throughout the Bible. Indeed, in Nahum 3:17: "Thy crowned are as the locusts, and thy captains as the great grasshoppers, which came in the hedges in the cold day but when the Sun ariseth they flee away, and their place is not known where they are."

That is exactly the case in parts of South Dakota. We did not see too many grasshoppers in the severe drought areas because they have to move to crops and areas with grass. But the point is, Mr. President, this has been a problem. It is a potential problem whenever there is a drought. It will be a bigger problem next year if we do not take preventive action this year.

So in developing a drought package, we must work with States, counties, and local governments to implement an effective grasshopper control program. It is one of the side effects of drought. It is a very real problem which needs to be addressed.

THE DROUGHT

Mr. LEAHY. Mr. President, I understand that, so far, 8 to 10 bills have been introduced in the Senate and the other body with respect to drought legislation. I am told that a number of bills, by both Republicans and Democrats, may well be introduced today in either body.

As chairman of the Senate Agriculture Committee, I welcome the ideas that are involved in these pieces of legislation. In fact, I would hope that if Members do have specific legislative ideas or proposals, they might have them all introduced by Monday, July 11. I say that because the congressional task force, the bipartisan task force, of the Senate Agriculture Committee has to move forward with concrete responses to the drought.

If everything can get in, what I would propose now—and I just want to notify Senators—it is that I intend to hold hearings on drought legislation on Tuesday, July 12, the first full week we will be back, and that I would hope to have as many proposals by Republicans and Democrats as possible submitted to the Senate before then, so that we can talk about them.

I would hope that the distinguished chairman of the House Agriculture Committee and I would be able to bring the congressional task force together, also during that week, to look at the various proposals that have been made and propose at least the outlines of one piece of legislation. If we are able to do that, that one piece of legislation will be put on the agenda of the Senate Agriculture Committee, and that would serve as a vehicle.

So I urge all Senators, Republicans and Democrats, that if they have ideas or proposals, they may want to bring them forward.

There will be a lot of discussion during the Fourth of July recess, and Senators on both sides of the aisle should bring their proposals to me. I want to hear them. The congressional

task force will have a chance to look at them, and the Senate Agriculture Committee, during our first full week back, will be having hearings on specific remedies. We know there is a drought, and now we have to figure out the specific remedies.

I will be guided by what the congressional task force already has done and that is to guarantee the people that they are going to stay in business. We are not going to have hundreds of thousands of the best farmers and ranchers in this country thrown out of business because of the drought. We will make sure that they stay in business. We need those proposals so that we can do that.

Mr. DASCHLE. Mr. President, farmers will awake this morning to good news. Rain is forecasted in the next day or two for the Midwestern drought area. For farmers and ranchers facing drought-stunted grain fields and the liquidation of foundation herds, this positive weather forecast will provide an important boost, if not primarily a psychological lift.

However, it is important my colleagues keep in mind that a complete and thorough rainfall will not erase the drastic impact the drought has had thus far on the Nation's agricultural producers. In many areas throughout the agricultural heartland, the financial damage caused by the drought of 1988 has already been done and cannot be reversed.

In South Dakota alone, everyday this drought continues, farmers lose approximately $30 million in crop sales. The State has lost over one third of its grain crop due to the lingering drought. The yield per acre for the grain crop has been reduced between 2 and 4 percent per day.

Specifically, South Dakota agricultural officials estimate a loss of 55 percent of the spring wheat crop at a value of $113 million. Over 50 percent of the State's oats crop has been lost. And $44 million has been lost due to failure of the barley crop, estimated at a 50-percent loss.

The total economic impact of loss of crops due to the drought in South Dakota economy is estimated at $1.1 billion.

Livestock producers have also felt the ramifications of the drought. The lack of available feed has forced the State's livestock producers to liquidate their foundation herds at a time when livestock prices are falling.

Comparing April and May of this year to the same time period of last year, there has been a 109-percent increase in the sale of cow and calf herds. In 1987, 5,833 were sold, and this year 11,176 were auctioned. In some auction barns in South Dakota, five to seven times as many cows have been sold compared to last year.

Because of the seriousness of the drought and its financial impact not only on the Nation's farmers and ranchers but also on the small towns and communities dependent on the farm economy, the residents of drought-striken areas need to hear more than the short-term weather forecast. They need to hear that the Federal Government, and specifically the U.S. Senate, understands this crisis and will put emergency relief on a fast track for early consideration.

I commend Senator LEAHY, the chairman of the Senate Agriculture Committee, for recognizing the magnitude of this crisis and for appointing an emergency Senate-House bipartisan, Drought Emergency Task Force to address it. I have regularly attended the meetings of the task force and fully expect that legislation will soon move. Because of the bipartisan nature with which this task force has operated, I fully expect that the product of the task force will be comprehensive and will likely be signed into law by President Reagan. This is one time when politics has taken a backseat to the serious crisis facing the Congress and all participants in this process should be commended.

In order that the Drought Task Force have a complete understanding of the unique needs of Midwestern States such as South Dakota, I have been working with the ranking member of the Senate Agriculture Committee, Senator JOHN MELCHER, and the chairman of the Senate Agriculture Appropriations Subcommittee, Senator QUENTIN BURDICK, to fashion an omnibus drought relief bill that will address the financial crisis facing the Dakotas and surrounding States, such as Montana. It is my hope that the Senate-House task force have this proposal under active consideration when the task force's product is brought before the Senate Agriculture Committee for action.

The legislation I am cosponsoring today reflects the seriousness of the drought and the financial relief that needs to be made immediately available.

We need assistance for the dairy producer. This legislation provides that by eliminating the anticipated 50 cent per hundredweight cut in price supports on January 1, 1989.

We must provide emergency assistance to the Nation's grain producers. Aid make available in drought disaster counties will also be made available to eligible producers in contiguous counties. This legislation will guarantee deficiency payments for failed and prevented planting. Farmers who have a crop would be able to harvest whatever they can for market. Producers with Federal crop insurance would be eligible. In addition, it will direct the Secretary to make low yield disaster payments. Producers of nonprogram crop would also be eligible for payments.

Any drought assistance measure must address the unique needs of the Nation's livestock producers. This would mandate that set-aside and conservation reserve land be opened up in nondrought areas if forage is needed in drought areas. Transportation assistance to bring livestock to available feed sources, would also be provided if it is cost effective.

Finally, we must recognize that the effect of the drought does not stop at the incorporated limits of the tens of thousands of small towns and communities throughout the drought area. This legislation recognizes that the small businesses owner on main street is just as impacted by the drought as any farmer or rancher. Their business are directly impacted by the drought's impact on the agricultural sector.

This legislation recognizes that through the U.S. Department of Agriculture assistance can be provided to small businesses. We will be considering additional legislation that could help small businesses during these troubling times.

In conclusion, it is obvious that we cannot erase the damage done by the drought. The lack of moisture and the extreme heat came too early in the crop season for rain or financial assistance to reverse the impact of the drought. We must, however, send a clear message to those in the drought areas of the Nation that we will not stand idle while the drought continues. We must marshall the vast resources of the Federal and State governments to provide assistance to farmers, ranchers, and small business owners.

I intend to work with Chairman LEAHY to finalize the product of the Drought Task Force. I expect that product to be forthcoming and that it will be based in large part on the legislation we will be introducing today.

For weeks, the drought has been clear. The uncertainty facing farmers and ranchers must end. Adoption of the proposals contained in this bill will end that uncertainty.

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

(The remarks of Mr. MCCONNELL pertaining to introduction of legislation appear later in today's RECORD under "Statements on Introduced Bills and Resolutions.")

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. I yield to the distinguished Senator from Nevada. How much time does he require?

Mr. REID. Mr. President, I need about 5 minutes.

Mr. BYRD. I yield about 5 minutes to the distinguished Senator. How much time does Mr. CONRAD wish? He

wishes 5 minutes. How much time does Mr. WIRTH wish?

Mr. WIRTH. About 8 minutes.

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

The ACTING PRESIDENT pro tempore. Fourteen minutes.

Mr. BYRD. I have 14 minutes left. Mr. President, I will yield the 14 minutes to the 3 Senators and they may divide it as they wish.

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

DRUNK DRIVING

Mr. REID. Mr. President, today, in fact in a matter of a few minutes, a bill of vital importance will come before the Senate Environment and Public Works Committee. Less than 2 weeks ago, Senator LAUTENBERG and I introduced S. 2523. Since that time, other Senators have signed onto this lifesaving legislation as cosponsors.

Mr. President, S. 2523 is a bill that proposes a national solution to a national problem; that is, drunk driving.

Since that bill was first introduced, less than 2 weeks ago, approximately 1,000 people, that is men, women, and children, have died in alcohol-related traffic accidents.

Drunk driving is an issue of national importance. Our highways, our streets, our backroads, are afflicted with a plague of epidemic proportions. Drunk driving kills approximately 24,000 people a year. That means about 65 people each day die. That works out to 1 death every 22 minutes.

Drunk drivers are a danger to themselves, to other drivers, to cyclists, pedestrians, even children on the sidewalks, as we were reminded just a week or so ago when a driver struck and killed 10-year-old Katrina Ferguson in her own driveway in a suburb right across the Potomac. Her mother was holding Katrina's hand while waiting for a schoolbus. The driver was charged with driving while intoxicated.

My bill provides a strong deterrence against driving drunk: administrative revocation. Under my bill, whenever a drunk driver is discovered behind the wheel of a car, his license is immediately suspended. Highway safety specialists generally accept the immediacy of a driver's license suspension is more important than its severity. As in all criminal law, certainty is more important than severity. The centerpiece of my bill mandates prompt suspension of the driver's license in all drunk driving offenses. Administrative revocation constitutes a multipronged attack on the drunk driver.

First, and foremost, the driver is immediately subjected to the consequences of his actions; second, the risk of repeat offenses and crashes is reduced; third, the operation of enforcement systems is expedited; fourth, law enforcement morale rises with real results; and last, the judicial system is relieved of the burden of enforcement. Both Mothers Against Drunk Driving and the Presidential Commission against Drunk Driving support administrative revocation.

My bill induces the States to adopt nationwide standards to catch, judges, and punish drunk drivers: States are required to consider a person with a blood alcohol level of 0.10 legally drunk, to conduct blood alcohol tests when traffic accidents cause death or serious injury, and to forfeit the registration and license plates of those convicted of repeat offenses and those who drive while their licenses are suspended because of alcohol-related traffic offenses.

We must get drunk drivers from behind the wheels of their cars. We must send a strong message to people who drink and drive: Drunk driving is simply not socially or legally acceptable.

Everyone knows that drunk driving is a killer. But many drunk drivers think, "I won't have an accident," or "I'm not that drunk", or "I only have a few miles to drive", and then they get behind the steering wheel. Maybe they have driven drunk once, or many times until that first accident.

Now, our hypothetical person will continue to drive drunk until one of two things happens: either he has an accident, or he gets stopped by the police for drunk driving. If the accident is not fatal to him, chances are, if this legislation is adopted he will never drive drunk again. But we must stop the drunk driver before this first accident, because that first time is already too late. This law would act as a deterrent.

We need a national law, a national stand against drunk driving. We need a law that makes the drunk driver think, "I cannot drive drunk, because I will get caught, and I don't want to suffer the consequences."

This law will not prevent every drunk driver from driving. But it will deter most from getting behind the wheel. The others who continue to dodge fate will eventually get caught, no matter in what State they reside.

Drinking is a privilege. Driving is a privilege. But the combination of the two is a crime. We must ensure that drunk drivers all over the Nation are aware that drunk driving is a crime, that they are criminals, and that the States are empowered to prosecute and punish them to the full extent of the law. Only then can we celebrate our safe highways with a toast.

THE DROUGHT

Mr. CONRAD. Mr. President, we have a critical need for action on the drought conditions facing much of this country. The leadership of Senator LEAHY on the drought task force has focused needed national attention on the problem, and we deeply appreciate the leadership that he has provided on this issue. Unfortunately, the drought task force was not able to meet this week because of the shortened week, and in the meantime our farmers need a basis for discussion. That is why I rise to support the bill that Senator MELCHER and others of us will be introducing later today to deal with the drought crisis facing this country.

Mr. President, the farm economy in this country has suffered from the worst recession since the 1930's. From 1980 to 1985, net farm income fell to the lowest level since the Great Depression. Farmland values have plummeted 50 percent or more in most of the agricultural States, and throughout the country tens of thousands of farmers are in precarious financial positions.

Mr. President, we are not facing a continuation of critical weather conditions. Lack of rain is only part of the story. In my State, precipitation is running about 20 percent of normal. The record high temperatures tell the rest of the story. North Dakota has experienced 18 days over 90 degrees since late May. That is compared with a long-term average of 3 days in excess of 90 degrees. Projections indicate more of the same.

Mr. President, we have critical crop and pasture problems. Conditions are rapidly deteriorating. In the last 2 weeks the percentage of pasture acres rated as very poor by the North Dakota Agricultural Statistics Service has doubled. Ninety eight percent of our pastures are now considered to be in very poor condition as compared with 46 percent 2 weeks ago. Subsoil and topsoil moisture levels in my State are the driest since records were started 38 years ago. Crop yields are drastically down. In much of my State 70 percent of the crop has already been lost.

Mr. President, that is why it is critical we put before this body legislation which can be discussed while Members who are from affected areas and Members who are from areas that are not immediately affected have something to discuss with their constituents. That is what the bill to be introduced by Senator MELCHER and a number of others of us will do. It provides for a guaranteed level of deficiency payments. It pays for a disaster low yield payment for those who are not covered by Federal crop insurance. It provides coverage to nonprogram crops and special provisions are included for dairy and livestock producers.

Mr. President, this relief bill also contains provisions that provide for the transportation of livestock to

available feed areas if the Secretary determines that this would be less expensive than moving feed to cattle. It also provides that farmers in nondrought areas would be allowed to sell or donate their hay from ACR and CRP acres to provide needed feed. The January, 1980 50-cent dairy price cut would be removed.

Mr. President, this is a beginning. It is a basis for discussion. It is precisely what we need at this time. I rise in strong support. I hope my colleagues on the other side will join in cosponsoring this legislation today. The bill will be introduced later this afternoon.

Mr. President, I yield the floor.

GLOBAL CLIMATE

Mr. WIRTH. Mr. President, a global warning has been sounded in the United States and around the world during the past few weeks and months. The evidence is mounting that the inhabitants of this planet are on a course toward dramatic climate and societal change—that the global climate is changing as the Earth's atmosphere gets warmer. Let me cite just a few examples.

The drought that has been discussed in this Chamber this morning and has been so much in the headlines is ravaging, as we all know, vast segments of the American agriculutural community, and this could become one of the great natural disasters in our Nation's history, surpassing even the Dust Bowl days of the 1930's. Every newspaper and television in the Nation is describing, in bleak images, how the most productive soils and some of the mightiest rivers on Earth are literally drying up. Already, the Northern Plains States are facing crop losses above 50 percent. And as we all know, some farmers are on their last leg, hoping and praying for relief from this awesome display of natural destruction.

Yesterday, the Washington Post, reported that the three largest rivers in the United States—the Mississippi, the St. Lawrence, and the Columbia—had dropped to their lowest flows in decades. In fact, last week, the Mississippi River sank to the lowest point ever recorded. Similar events are occurring in my home State of Colorado, where spring runoffs are among the lowest on record and reservoir levels are alarmingly low.

Second, on Thursday of last week, Dr. James Hansen, the Director of NASA's Goddard Institute for Space Studies, and one of the world's leading climatologists, testified at a hearing of the Energy and Natural Resources Committee. According to his studies, we now can say, with 99 percent certainty, that the greenhouse effect is upon us and that events such as the North American drought are increasingly likely to occur.

Dr. Hansen's stunning and broadly quoted testimony also revealed that during the first 5 months of this year, the Earth is warmer than it has been during any comparable period since measurements began 130 years ago. According to Dr. Hansen, 1988 will be the warmest year on record—barring an improbable and dramatic cooling trend during the remainder of the year. Finally, we learned that the four previous records for global temperatures had all occurred during the 1980's.

Mr. President, no one can say that the current drought is the result of the greenhouse effect. We can say that the scientists of the world are sounding an alarm about the current global warming trend. The build-up of the greenhouse gases—carbon dioxide, chlorofluorocarbons, methane, nitrous oxide, and tropospheric ozone—is increasing the likelihood of dramatic climate change and extreme events such as heat waves, drought, and sea level rise.

We only have to look at this year's drought to imagine what the implications of a warmer climate could be. The Mississippi River was closed last week because portions of the river were too low for some barges to navigate, halting the transportation of many goods in the Midwest. Industries such as insurance, agriculture, energy, aerospace, transportation, finance, construction, and recreation are all going to have to start thinking about what a warmer world might mean for them.

And we in the Congress must act now to develop strategies to examine and respond to this issue. Like industry, virtually every committee in this body must begin to factor this issue into the public policy debate. The Environment and Public Works Committee, under the guidance of Senators BAUCUS and CHAFEE, has shown leadership in that effort already. The Energy and Natural Resources Committee has a special responsibility to act now to examine this issue very closely and to craft a creative and comprehensive energy policy that will allow this Nation to slow the build-up of carbon dioxide, which is the result, principally, of fossil fuel combustion.

It is time to act. Scientists are telling us that the longer we wait, the more devastating the effects could be. People say, is there a correlation the drought and the heat wave and global warming? I think the response to that is how many times do we have to roll the dice and come up with snake eyes before we say that the dice are loaded?

Our short-term objective must be to slow the rate of change in the atmosphere. Over the longer term, political leadership is needed at the highest levels to halt the global experiment that is currently underway. And the United States should lead the way. We must understand the scope of the greenhouse effect, and act together to deal with it. We can begin by making those changes that make sense anyway.

The energy efficiency improvements achieved in the United States between 1973 and 1986 have reduced our CO_2 emissions by one-third of what they would have been without those improvements. Yet there are still very large opportunities to reduce energy costs, improve efficiency and reduce CO_2 emissions in this country. The most ambitious forecasts estimate that the United States could save more than $200 billion on its annual energy bill by making energy efficiency improvements in the industrial, building, and transportation sectors of our economy. Clearly, energy efficiency is an economic and environmental strategy that makes sense for this Nation and we must make energy efficiency, once again, a top priority of our energy policy.

We also should step up research and development programs for alternative sources of energy that will not contribute to emissions of greenhouse gases. Photovoltaic solar energy, for example, is one of the technologies that, again, has multiple benefits for this, and other nations of the world. It is environmentally benign and there are vast markets and opportunities for solar applications in overseas markets—particulaly in the developing world.

It is also time to reexamine the nuclear option in the United States. We must strengthen our research efforts to see if we can develop a new generation of passively-safe, modular and economical nuclear powerplants.

These are but a few of the options that the United States must consider if we are to stabilize the concentrations of carbon dioxide and the other greenhouse gases in the atmosphere. We are also going to have to look at our bilateral and multilateral aid programs as they relate to the devastating increase in tropical deforestation, the other force driving increases in atmospheric CO_2 concentration. But there are no easy answers to this problem. The magnitude of this challenge can only be compared to that of nuclear arms control. We are facing a stubborn and mighty adversary.

Unfortunately, we cannot sit down and negotiate with our foe. We must come to the bargaining table with concrete and measurable actions.

Consider that by the time we gain the empirical evidence to confirm some of the staggering implications of this phenomenon, it will be too late to control them. We will only know that the future holds more—not less—of the same. Political leaders must look at what we know today and realize that it is their responsibility to reduce

the risks posed by the greenhouse effect. The fate of the Earth's 21st century global environment rests with us—and especially with the decisions we make to control the growth of greenhouse gases.

Yesterday, I returned from an important international conference held in Toronto, where more than 300 of the world's leading scientists and public policy leaders from more than 60 nations are meeting to discuss this problem of global warming. On Monday, the Prime Ministers of Canada and Norway called for a global climate convention to examine the greenhouse effect and to develop an international agreement that will allow the nations of the world to work together to slow down the rate of climate change. This is a similar proposal to one that I have made, as has Senator GORE and others. Unfortunately, it was reported that our State Department responded that this idea would "be premature at the current moment to contemplate an international agreement that sets targets for greenhouse gases."

I suspect that this quote was taken out of context, as our State Department is certainly aware of the problem and the ramifications, particularly given the deep involvement of the able Mr. William Nitze, Deputy Assistant Secretary of State.

Mr. President, that statement runs contrary to everything that the world's leading climatologists are telling us. At the meetings in Toronto, I heard over and over again about the need to act now. If the scientists are correct, we may be committed to a warming more rapid than anything that has occurred during the course of human history. It is time for the leadership of this Nation, from the White House on down, to take this issue seriously. We cannot continue to discount it as an obscure scientific theory. I urge President Reagan to join the call of Prime Minister Mulroney and Prime Minister Brundtland for a global climate convention. There is no time to delay.

We are confronting a new age where an environmental problem—the massive alteration of the composition of our atmosphere—has the potential to change the way nations do business with each other. We are being pressed to achieve a level of global agreement and cooperation with a speed that is unprecedented.

It is an exciting challenge for us to try to understand how we are going to take on this, probably the most significant economic, political, and environmental challenge that mankind has ever faced. I urge all of my colleagues to join me in confronting that challenge, and I look forward to working with all Senators to find innovative strategies that will help protect the integrity of our atmosphere for generations to come.

Mr. President, I ask unanimous consent to include five articles describing the events that I outlined in my speech.

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

[From the Washington Post, June 28, 1988]

NATION'S BIG RIVERS REACH LOWEST LEVELS IN DECADES—WATER SUPPLIES, SHIPPING, FISH AFFECTED

(By Michael Weisskopf)

Rivers nationwide have dipped to their lowest levels in decades, threatening sources of drinking water, limiting hydropower generation, forcing conservation measures on agricultural users, stranding barges and endangering fish and wildlife.

According to the U.S. Geological Survey, the combined flow of the three largest U.S. rivers—the Mississippi, St. Lawrence and Columbia—fell in May to its lowest point in 37 years. In the Midwest and Southeast, rivers dropped drastically—some are as low as 10 percent of their normal levels. May stream flow was below average by 29 percent in the Pacific Northwest, 42 percent in California, 40 percent in the Great Basin area of Nevada and Utah and 18 percent in the Southeast.

Survey officials said April's flow was well below normal in one-third of the country, and the percentage increased to half the country in May, a drier month. June has been drier still.

The Mississippi, which supplies drinking water from New Orleans to Minneapolis-St. Paul, is 15 percent of its normal flow in the Twin Cities. If past droughts are any guide, it may fall so low in July that "we could be out of water," said Jerry Winslow, senior engineer at the Minnesota Pollution Control Agency.

The state has contingency plans to open dams in northern Minnesota filled by natural lakes that flow into the Mississippi, he said. But that would hurt the fishing and resort industry and divert water from irrigators.

Dredging has kept barge traffic moving intermittently on the Mississippi, which was closed for three days last week at Memphis and over the weekend at St. Louis. When a narrow channel reopened yesterday at St. Louis, officials alternated downriver and upriver traffic until a 35-tow backlog was cleared. But two towboats ran aground near Memphis, snarling traffic there.

At its mouth in New Orleans, the river has fallen to its lowest point in 50 years and is moving so slowly that salt water from the Gulf of Mexico is penetrating upstream, said officials of the Louisiana Water Pollution Control Division. The U.S. Army Corps of Engineers plans to erect an underwater barrier to protect drinking water until river velocity picks up.

In North Dakota, the drought has drawn down the Red River to 30 percent of its normal levels. But most drinking water is drawn from underground aquifers, in which water tables are falling but still adequate.

The water level "has been dropping maybe 10 percent every month or six weeks," said Ron Affeldt, director of North Dakota's Emergency Management Office. Since the last major drought of 1961, he said, homeowners have dug deeper wells.

Elsewhere, municipalities in the West and Southeast have restricted lawn-watering and carwashing to conserve drinking water. In Atlanta, water department employees patrol the streets, looking for violators of a nine-hour-a-day watering ban.

As the volume of lakes and rives drops, so does their ability to dilute industrial and municipal wastes. Federal law requires local officials to limit factory and sewage-treatment plant discharges so that they will not pollute bodies of water even at their historic, seven-day lows.

But the Mississippi has dropped below its historic low flow in Louisiana for the first time in eight years, prompting the state to begin monitoring concentrations of polutants.

The flow of the upper Mississippi is so low that one-fifth of the water downstream of a Twins Cities' treatment plant is treated sewage, Winslow said. The proportion of effluent, 95 percent pure, probably will reach 50 percent this summer, he said. Since the intake for drinking water is upstream of the plant, he said, public health is not endangered.

But such organic wastes raise the water temperature and deplete oxygen needed by fish, and wildlife experts have predicted significant fish kills in the Midwest.

Nine rivers in Iowa have dropped to what the state calls the level of "protective flow," forcing farmers—who normally irrigate with about 500,000 gallons a day each—to reduce their daily intake to 25,000 gallons, said Allan Stokes, a state Department of Natural Resources official.

The Tennessee Valley Authority's 29 hydropower plants, which normally supply 10 percent of the electricity for 8 million southeastern customers, are operating at 55 percent of capacity, a spokesman said. Reservoirs filled by the Tennessee River and used by the plants are 40 feet below their normal levels—as low now as they normally are in November.

The power deficit is being replaced by costlier, dirtier coal-fired plants, the spokesman said. Since TVA has pledged publicly not to raise rates for three years, the substitution is "not going help our financial performance," he added. But one of the TVA's coal-fired plants in Memphis may have to close because it takes cooling water from the Mississippi, which threatens to fall below its intake pipe, TVA power manager Robert C. Steffy said.

NORWAY AND CANADA CALL FOR PACT TO PROTECT ATMOSPHERE

(By Philip Shabecoff)

TORONTO, June 27.—The Prime Ministers of Canada and Norway called today for a binding international agreement to protect the atmosphere from pollution.

Speaking at a conference on the changing atmosphere, Prime Minister Brian Mulroney of Canada proposed a global "law of the air," and Prime Minister Gro Harlem Brundtland of Norway called for a treaty to stabilize the earth's atmosphere and prevent further degradation.

The two leaders said that the international community must now act to address a range of assaults on the atmosphere, including the global warming projected to result from the greenhouse effect, damage to the protective ozone layer and the acidification of rain and snow.

Government officials, scientists and environmentalists here said that this was the first time heads of state had proposed an international agreement to protect the atmosphere from a broad range of problems

caused by the burning of fossil fuels, industrial pollution and other human activities.

Last year more than 40 nations agreed to act to protect the ozone layer by limiting use of chlorofluorocarbons, a group of industrial chemicals. But as Mr. Mulroney and Mrs. Brundtland made clear, a treaty to protect the atmosphere would require much more sweeping adjustments, including reducing dependence on oil and coal.

The conference, "The Changing Atmosphere: Implications for Global Security," was called by the Government of Canada. While there are representatives here from 48 countries, this meeting was not planned as a formal negotiating session and no international agreements will be reached here. Nevertheless, representatives of the Reagan Administration at the conference said it was much too soon to begin considering an international agreement on protecting the atmosphere. They note that the issues and problems involved are far more complex than those in the effort to protect the ozone layer. Generally, however, government and private participants here expressed a sense of urgency about coming to grips with human-induced climate change. New evidence that a global warming, and resulting changes in weather patterns, may already have begun has garnered special attention.

Dr. James E. Hansen, a climate expert for the National Aeronautics and Space Administration, told a Senate committee last week that the global temperature in the first five months of this year was the warmest on record and that the rising temperature trend is almost certainly a result of the greenhouse effect. The effect results from the buildup of carbon dioxide and other gases in the atmosphere that trap solar radiation within the atmosphere, raising the earth's temperature.

Mathematical models predict that as a result of the greenhouse effect, average global temperatures will rise by three to nine degrees Fahrenheit by the period from 2030 to 2050. A rise of this order would cause disruptive shifts in rainfall patterns and, by melting ice and warming the oceans, cause sea levels to rise by a foot or more. The global temperature has not risen by three degrees for more than 10,000 years, and it has been hundreds of thousands of years since there has been a nine-degree change.

"The impact of world climate change may be greater than any challenge mankind has faced, with the exception of preventing nuclear war," said Prime Minister Brundtland, who is chairwoman of the United Nations' World Commission on Environment and Development.

As the first part of her action plan, Mrs. Brundtland called for an international discussion of ways to reduce energy consumption before the end of this century as a means of reducing carbon dioxide pollution. She said Norway is planning on stabilizing energy use by the year 2000.

Burning of fossil fuels accounts for most of the carbon dioxide humans are adding to the atmosphere, and also accounts for much of the pollution that leads to acid rain.

The Norwegian leader proposed an international research program on renewable energy sources, the transfer of benign energy technology to developing countries and accelerated scientific research into climate problems. She also proposed a "global convention on the protection of the climate," to coordinate research, information exchange and "concrete measures to reduce emissions of harmful substances."

Mr. Mulroney was not as specific in outlining his plan for an international law of the air but Canadian officials here said reduction of fossil fuel use would be among the elements.

William A. Nitze, Deputy Assistant Secretary of State for Environment, Health and Natural Resources, said it would be "premature at the current moment to contemplate an international agreement that sets targets for greenhouse gases."

[From the New York Times, June 24, 1988]

GLOBAL WARMING HAS BEGUN, EXPERT TELLS SENATE—SHARP CUT IN BURNING OF FOSSIL FUELS IS URGED TO BATTLE SHIFT IN CLIMATE

(By Philip Shabecoff)

WASHINGTON, June 23—The earth has been warmer in the first five months of this year than in many comparable period since measurements began 130 years ago, and the higher temperatures can now be attributed to a long-expected global warming trend linked to pollution, a space agency scientist reported today.

Until now, scientists have been cautious about attributing rising global temperatures of recent years to the predicted global warming caused by pollutants in the atmosphere, known as the "greenhouse effect." But today Dr. James E. Hansen of the National Aeronautics and Space Administration told a Congressional committee that it was 99 percent certain that the warming trend was not a natural variation but was caused by a buildup of carbon dioxide and other artifical gases in the atmosphere.

AN IMPACT LASTING CENTURIES

Dr. Kansen, a leading expert on climate change, said in an interview that there was no "magic number" that showed when the greenhouse effect was actually starting to cause changes in climate and weather. But he added, "It is time to stop waffling so much and say that the evidence is pretty strong that the greenhouse effect is here."

If Dr. Hansen and other scientists are correct, then humans, by burning of fossil fuels and other activities, have altered the global climate in a manner that will affect life on earth for centuries to come.

Dr. Hansen, director of NASA's Institute for Space Studies in Manhattan, testified before the Senate Energy and Natural Resources Committee.

SOME DISPUTE LINK

He and other scientists testifying before the Senate panel today said that projections of the climate change that is now apparently occurring mean that the Southeastern and Midwestern sections of the United States will be subject to frequent episodes of very high temperature and drought in the next decade and beyond. But they cautioned that it was not possible to attribute a specific heat wave to the greenhouse effect, given the still limited state of knowledge on the subject.

Some scientists still argue that warmer temperatures in recent years may be a result of natural fluctuations rather than human-induced changes.

Several Senators on the Committee joined witnesses in calling for action now on a broad national and international program to slow the pace of global warming.

Senator Timothy E. Wirth, the Colorado Democrat who presided at the hearing today, said: "As I read it, the scientific evidence is compelling: the global climate is changing as the earth's atmosphere gets warmer. Now, the Congress must begin to consider how we are going to slow or halt that warming trend and how we are going to cope with the changes that may already be inevitable."

TRAPPING OF SOLAR RADIATION

Mathematical models have predicted for some years now that a buildup of carbon dioxide from the burning of fossil fuels such as coal and oil and other gases emitted by human activities into the atmosphere would cause the earth's surface to warm by trapping infrared radiation from the sun, turning the entire earth into a kind of greenhouse.

If the current pace of the buildup of these gases continues, the effect is likely to be a warming of 3 to 9 degrees Fahrenheit from the year 2025 to 2050, according to these projections. This rise in temperature is not expected to be uniform around the globe but to be greater in the higher latitudes, reaching as much as 20 degrees, and lower at the Equator.

The rise in global temperature is predicted to cause a thermal expansion of the oceans and to melt glaciers and polar ice, thus causing sea levels to rise by one to four feet by the middle of the next century. Scientists have already detected a slight rise in sea levels. At the same time, heat would cause inland waters to evaporate more rapidly, thus lowering the level of bodies of water such as the Great Lakes.

Dr. Hansen, who records temperatures from readings at monitoring stations around the world, had previously reported that four of the hottest years on record occurred in the 1980's. Compared with a 30-year base period from 1950 to 1980, when the global temperature averaged 59 degrees Fahrenheit, the temperature was one-third of a degree higher last year. In the entire century before 1880, global temperature had risen by half a degree, rising in the late 1800's and early 20th century, then roughly stabilizing for unknown reasons for several decades in the middle of the century.

WARMEST YEAR EXPECTED

In the first five months of this year, the temperature averaged about four-tenths of a degree above the base period, Dr. Hansen reported today. "The first five months of 1988 are so warm globally that we conclude that 1988 will be the warmest year on record unless there is a remarkable, improbable cooling in the remainder of the year," he told the Senate committee.

He also said that current climate patterns were consistent with the projections of the greenhouse effect in several respects in addition to the rise in temperature. For example, he said, the rise in temperature is greater in high latitudes than in low, is greater over continents than oceans, and there is cooling in the upper atmosphere as the lower atmosphere warms up.

"Global warming has reached a level such that we can ascribe with a high degree of confidence a cause and effect relationship between the greenhouse effect and observed warming," Dr. Hansen said at the hearing today, adding, "It is already happening now."

Dr. Syukuro Manabe of the Geophysical Fluid Dynamics Laboratory of the National Oceanic and Atmospheric Administration testified today that a number of factors, including an earlier snowmelt each year because of higher temperatures and a rain belt that moves farther north in the summer means that "it is likely that severe mid-continental summer dryness will occur more

frequently with increasing atmospheric temperature."

While natural climate variability is the most likely chief cause of the current drought, Dr. Manabe said, the global warming trend is probably "aggravating the current dry condition." He added that the current drought was a foretaste of what the country would be facing in the years ahead.

Dr. George Woodwell, director of the Woods Hole Research Center in Woods Hole, Mass., said that while a slow warming trend would give human society time to respond, the rate of warming is uncertain.

[From the New York Times, June 26, 1988]

THE HEAT IS ON—CALCULATING THE CONSEQUENCES OF A WARMER PLANET EARTH

(By Philip Shabecoff)

With evidence mounting that the earth is becoming a hotter place to live, the United States and many other nations are beginning to plan for climatic change caused by what environmentalists call the greenhouse effect.

Once dismissed as the stuff of science fiction, the greenhouse effect is now being taken so seriously that some economists are predicting that it will eventually cost tens if not hundreds of billions of dollars a year to cut down on the gaseous emissions that are thought to be raising the surface temperature of the planet and to deal with the consequences. Even if the trend can be slowed, many scientists consider serious environmental and economic damage a foregone conclusion.

While the worst problems are not expected until early in the next century, scientists at a Senate hearing last week suggested that the greenhouse effect might conceivably be contributing to the current drought, which has parched farmlands from New Mexico to Pennsylvania and from Idaho to South Carolina. Amid recordbreaking temperatures, 40 percent of the counties in the United States have been declared disaster areas, and the Agriculture Department predicted that shortages could cause food prices to rise an extra 1 percent this year. "It is time to stop waffling so much and say that the evidence is pretty strong that the greenhouse effect is here," said Dr. James E. Hansen, director of the National Aeronautics and Space Administration's Institute for Space Studies. It is impossible to link a particular heat wave to climatic change. But according to Dr. Hansen's estimates, the hottest four years since the 1880's occurred during this decade. Average global temperatures for 1988 are the highest on record, he said, and heat waves and droughts in the Southeastern and Midwestern sections of the United States will become more frequent.

In other areas, such as Canada and the Soviet Union, warmer temperatures could lead to richer grain harvests, though some scientists believe that temperatures will increase so quickly that it will be difficult for any country to reap economic benefits. "There will be no winners," said Dr. Michael Oppenheimer, atmospheric physicist for the Environmental Defense Fund.

The greenhouse effect has been a subject of international concern for some time. At their recent summit meeting, President Reagan and Mikhail S. Gorbachev announced a project to plan for a changing climate. Beginning tomorrow, government officials from every continent will meet with scientists and environmentalists in Toronto for a "World Conference on the Changing Atmosphere." The United Nations and the World Meteorological Organization are forming a panel to gather data.

STRATEGIC ENGINEERING

In the United States, planning for the greenhouse effect is the responsibility of the Environmental Protection Agency. Dennis Tirpak, head of strategic studies for the E.P.A., said that many roads, dams, water supply systems and storm drains will have to be designed with the possibility of drastically changed weather patterns in mind. E.P.A. officials noted, for example, that in planning for a new storm sewer system, officials of Charleston, S.C., are taking into account the possibility that melting polar ice and thermal expansion will cause the ocean to rise. James Titus, an E.P.A. economist, said that it would cost $10 billion to $50 billion to replace beaches washed away by rising tides. Coastal cities, he said, can be guarded by levees and pumps. But hundreds of thousands of acres of Louisiana lowland might be inundated, he said, and the port of New Orleans might have to be moved.

The greenhouse effect is caused by gases that concentrate in the atmosphere and, like a greenhouse, trap heat from the sun. Until recent decades, excess carbon dioxide, created mostly by the burning of coal, oil and wood, was considered the biggest problem. But other gases are now believed to be rapidly accumulating, including chlorofluorocarbons from aerosol sprays and other sources, nitrous oxides from fossil fuels and chemical fertilizers, and methane from organic matter.

If the current rate of buildup continues, then sometime between the years 2025 and 2050, the temperature of the earth's surface could have increased by an average of 3 to 9 degrees Fahrenheit. This could cause the sea level to rise by one to four feet. Evaporation is expected to cause inland waters such as the Great Lakes to recede.

Many scientists believe that it is the rate rather than the magnitude of the change that poses the greatest challenge. "We may be moving through an entire geological epoch in a single century," said Dr. John S. Hoffman, director of the global atmosphere program of the E.P.A's Office of Air and Radiation. "We are talking about changing the entire fabric of nature." Dr. Irving R. Mintzer a senior scientist for the World Resources Institute, an environmental group in Washington, said that a 9-degree change over several decades would exceed any that has occurred during the last 10 million years. Some scientists also predict desiccated mid-continents, dying forests, violent storms and other catastrophes. There could also be beneficial changes; the Arctic Ocean, for example, could be navigable throughout the year.

Dr. Mintzer said that a first step to diminishing global warming would be to ratify and implement a protocol, agreed to by 40 nations in Montreal last September, which would freeze and then cut back the production and use of chlorofluorocarbons. So far, only the United States and Mexico have ratified the pact. But many scientists believe that it will also be necessary to sharply reduce the combustion of coal, oil and gasoline. Environmental groups recommend conservation and solar and other renewable sources of energy, but concern about the greenhouse effect could also revive interest in nuclear power. Since trees absorb carbon dioxide, through the process of photosynthesis, restoring forest areas might also help. According to a recent report by the World Resources Institute, deforestation continues at a rate of 27 million acres a year.

MITIGATING EFFECTS

Joseph Mullan, senior vice president for environmental issues at the National Coal Association, an industry group, contended that the role played by coal in contributing to atmospheric carbon dioxide is still unknown. He noted that some scientists believe that the earth is moving toward a new ice age that would cancel out the greenhouse effect.

Dr. Lester B. Lave, a professor of economics at Carnegie-Mellon University who has examined the implications of global warming, argued that while a change in climate is fairly likely, it is hard to know much more than that. In the meantime, he said, "there is no way to justify spending tens of billions of dollars a year to prevent the greenhouse effect." The higher temperatures of the 1980's could be the result of natural climatic variation.

Several scientists suggested that policy makers start preparing "strategic hedges" against possible disruptions of the food supply. But such long-range strategies are likely to be of little comfort to farmers stricken by the current drought. Late last week, the National Weather Service predicted that whatever its cause, hot and dry weather would continue in the Plains and Middle West for the rest of the month.

A WORST-CASE FORECAST

Scientists disagree over just how bad the greehouse effect will be. According to some of the most dire predictions, this is how bad a summer day might be in the year 2030.

The temperature in Washington, D.C., is over 100 degrees for the 10th straight day. Air conditioners are running at maximum around the clock, straining the generating capacity of electrical power plants and assuring another jump in already soaring utility rates.

In New York City, heat is not the only problem. Workers are raising levees to hold back the rising tidal waters of the Hudson and East Rivers.

In the South, another 100,000 acres of Louisiana wetland is being lost to the sea. But Chicago is suffering from another extreme. Evaporation has been causing Lake Michigan to recede from Lake Shore Drive, leaving behind an ever wider expanse of malodorous mud.

For the Midwest, drought has become a way of life. To adapt, Kansas farmers are experimenting with biologically engineered grains to see if they will yield a profitable crop in the increasingly dry and dusty heartland.

In Minnesota, Canada and Siberia, however, a longer and warmer growing season is producing bumper crops of corn and winter wheat. And residents of suburban and rural New England are fighting an infestation of insects caused by a mild winter.

Fire consumes a dying conifer forest in Yellowstone National Park. Migration from the Southwest is increasing as high temperatures continue and water supplies are becoming inadequate to sustain the population.

While North Americans and Europeans struggle with the effects of changing weather patterns, people in some of the poorer countries of Africa and Asia are being overwhelmed by the greenhouse effect.

Rising waters drive millions of farmers from their tiny plots in the Nile Valley of Egypt and the Gangetic Delta of Bangla-

desh. The misery of the hungry people of the Sahel region of Africa deepens as rising temperatures push the Sahara farther south.

[From The New York Times, June 23, 1988]

THE GREENHOUSE EFFECT? REAL ENOUGH

A fierce drought is shriveling crops from Texas to North Dakota and has shrunk the Mississippi to its lowest levels on record. Dry years are part of nature's cycle. Still, it's time to take seriously another possible influence—the warming of the atmosphere by waste gases from a century of industrial activity. Whether or not the feared greenhouse effect is real, there are several preventive measures worth taking in their own right.

The greenhouse theory holds that certain waste gases let in sunlight but trap heat, which otherwise would escape into space. Carbon dioxide has been steadily building up through the burning of coal and oil—and because forests, which absorb the gas, are fast being destroyed. There is no clear proof that the gases have yet begun to warm the atmosphere. But there's circumstantial evidence, and some experts think it is getting stronger.

For example, four of the last eight years—1980, 1981, 1983 and 1987—have been the warmest since measurements of global surface temperatures began a century ago, and 1988 may be another record hot year. Still, there have been hot spells before, followed by a cooling.

According to computer simulations of the world's climate, there should be more rain in a greenhouse-heated globe. The rain falls in different places: more at the poles and the equator, less in the mid-latitudes. The drought in the Middle West falls in with these projections. But it stops far short of proving that the greenhouse effect has begun. "As far as we can tell, this is a tough summer well within the normal range of variability," says Donald Gilman, the Weather Service's long-range forecaster.

That's the nub of the problem: It's hard to identify a small, gradual sign of global warming amid wide natural fluctuations in climate. Even over the long term, the evidence is merely indicative. The world has warmed half a degree centigrade over the last century. But the warming is less than some computer models predict, forcing defenders of the greenhouse theory to argue that the extra heat is disappearing into the oceans.

With the greenhouse effect still uncertain, why take preventive steps, especially since the main one, burning less coal, would be enormously expensive? One answer is that it may take years to acquire positive proof of greenhouse-induced climate change, and the longer society waits, the larger a warming it will have to adapt to if the greenhouse theory turns out to be valid. Even a small warming could produce violent changes in climate. At worst, the Gulf Stream might shift course, failing to warm Europe. Sea level could rise 20 feet if the West Antarctic Ice Cap melts, flooding coastal cities from New York to New Orleans.

Several measures to slow the greenhouse warming are worth taking for other reasons:

Cut production of freons, chemicals used as solvents and refrigerants. Important greenhouse gases, they destroy the life-protecting ozone layer.

Protect tropical forests, which not only absorb carbon dioxide but also nourish a rich variety of animal and plant life.

Encourage conservation of energy and use of natural gas, which produces half as much carbon dioxide as does coal.

Develop cheaper, safer nuclear power; nuclear plants produce no carbon dioxide or acid rain.

Many climatologists expect that the greenhouse theory will eventually prove true, but fear to issue alarmist warnings ahead of time. Their caution is justified. But there's an ample case of taking these initial preventive measures when the cost of such insurance is so low and the discomforts of abrupt climate change, as the drought demonstrates, so high.

Mr. WIRTH. I yield the floor. Thank you, Mr. President.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Missouri.

THE DROUGHT OF 1988

Mr. BOND. Mr. President, the pride of the American farmer is seldom smaller than the crop he yields. The current drought has made this very apparent—facing immense production losses our farmers are concerned yet remain optimistic. Anyone unfamiliar with agriculture would be truly amazed at the ability of our farmers to operate under these extreme circumstances.

This past weekend, my colleague, Senator DANFORTH, and I traveled to Missouri to take a firsthand look at the drought's impacts. The conditions were more severe than we had expected. Since April, Missouri has received an average of 4.8 inches of rain, 8 inches less than the average. Coupled with temperatures consistently over 100 degrees, the situation is critical for both crops and livestock.

Last night we were pleased to hear reports that scattered rain had occurred in the State and there is some in the forecast. Nevertheless, the drought has still not been broken, and it will take more than one or two rainshowers to stop the loss which has already occurred, and nothing can bring about the crops which have already been lost, and the pastures which have gone.

Livestock producers are in immediate danger as pastures have dried up, feed prices have escalated, and water supplies are being depleted rapidly. Approximately 70 percent of Missouri counties now report less than a 3-week supply of water for their livestock. While some farmers have access to heavy machinery to dig deeper ditches, others see their ponds diminishing day by day. One farmer joked that he actually had to "water his fish." Water shortages in some rural communities have added to the concern—concern that has led to the suggestion that livestock have access to treated waste water.

The scenes that were played and replayed during the tour will remain with me for a long time. At one farm, soybeans planted many weeks ago had not yet broken the surface. At another, corn curled under 102 degree heat. At the livestock sale barn in Chillicothe, MO, weekly sales have increased from an average of 200 head a week to 800 to 1,000 head. Producers have gone beyond strict culling and are now being forced to liquidate foundation livestock at rock bottom prices.

During the farm visits and at a meeting of my Agriculture Advisory Committee, Governor Ashcroft, Senator DANFORTH, and I listened to the suggestions of government officials and farm leaders from throughout the State. Although I informed the group of actions being contemplated in Washington, the meeting was constructive in that there were many sound ideas expressed. In fact, I intend to convey these ideas to members of the congressional drought relief task force and the Secretary of Agriculture.

Mr. President, I would like to highlight some of the ideas which were suggested during our trip:

First, guarantee that advance deficiency payments will not have to be refunded. Also, producers who did not request an advance deficiency payment should receive an equal payment;

Second, permit farmers to receive any disaster assistance in the form of cash, not generic certificates. As generic certificates are now trading for less than their face value and as the quantity of stored grain decreases, many farmers would actually prefer cash;

Third, eliminate the current requirement that generic certificates cannot be redeemed for face value until 5 months after the date of issuance. This would improve the liquidity of the certificates and ensure farmers of their face value;

Fourth, eliminate the feed assistance programs' current 40-percent loss requirement, thus making all livestock producers eligible for feed assistance. The Emergency Feed Program should be implemented when the Secretary of Agriculture determines that the price of feed exceeds the price of last year's feed by 150 percent;

Fifth, provide assurances that CCC-owned stocks will be made available to producers under the Emergency Feed Assistance Program [EFAP]. In those instances where feed is not available in a county, or an adjoining county, grain should be transferred in a timely fashion to an approved warehouse in those countries. Also, farmers should be permitted to purchase CCC-owned grain in outlying counties which have also been released for the EFAP.

Mr. President, there was also a consensus that the United States must not implement any kind of trade sanctions or export limitations on agricultural products. We have worked too

hard and too long to lose our export markets once again.

I shall urge the members of the task force and USDA to consider the proposals which we have set forth.

In addition, I want to make a strong statement of appreciation to the Secretary of Agriculture and his staff, who I believe have acted effectively and efficiently to minimize the drought's devastating effects on our agricultural sector and our overall economy. Their devoted work and their willingness to assist farmers of our State is making a difference in very drastic circumstances.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate convened, 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 S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senators Howard Metzenbaum, Lloyd Bentsen, Jeff Bingaman, Carl Levin, Spark Matsunaga, Paul Simon, George J. Mitchell, J. Bennett Johnston, Daniel K. Inouye, Don Riegle, Barbara A. Mikulski, Christopher Dodd, Wyche Fowler, Jr., J.J. Exon, Max Baucus, John Melcher and Claiborne Pell.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 21]

Burdick	Metzenbaum	Sanford
DeConcini	Mitchell	Stafford
Exon	Moynihan	Trible
Kennedy	Quayle	Wilson
Lautenberg	Reid	Wirth

The PRESIDING OFFICER. A quorum is not present. The clerk will call the roll of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and 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 on agreeing to the motion of the Senator from West Virginia [Mr. BYRD]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

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

The result was announced—yeas 79, nays 18, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—79

Adams	Garn	Nunn
Baucus	Glenn	Packwood
Bentsen	Gore	Pell
Bingaman	Graham	Pressler
Boren	Grassley	Proxmire
Boschwitz	Harkin	Pryor
Bradley	Hatfield	Reid
Breaux	Heflin	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Johnston	Sanford
Chiles	Karnes	Sarbanes
Cochran	Kassebaum	Sasser
Conrad	Kennedy	Shelby
Cranston	Kerry	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Stafford
DeConcini	Lugar	Stennis
Dixon	Matsunaga	Stevens
Dodd	Melcher	Thurmond
Domenici	Metzenbaum	Trible
Durenberger	Mikulski	Warner
Exon	Mitchell	Wirth
Ford	Moynihan	
Fowler	Nickles	

NAYS—18

Armstrong	Hecht	Murkowski
Bond	Humphrey	Quayle
Cohen	Kasten	Symms
Dole	McCain	Wallop
Gramm	McClure	Weicker
Hatch	McConnell	Wilson

NOT VOTING—3

Biden	Evans	Helms

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quroum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes, shall be brought to a close?

The yeas and nays are automatic under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—58

Adams	Ford	Moynihan
Baucus	Fowler	Nunn
Bentsen	Glenn	Pell
Bingaman	Gore	Proxmire
Boren	Graham	Pryor
Bradley	Harkin	Reid
Breaux	Heflin	Riegle
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Byrd	Johnston	Sanford
Chafee	Kennedy	Sarbanes
Chiles	Kerry	Sasser
Conrad	Lautenberg	Shelby
Cranston	Leahy	Simon
Daschle	Levin	Stafford
DeConcini	Matsunaga	Stennis
Dixon	Melcher	Weicker
Dodd	Metzenbaum	Wirth
Durenberger	Mikulski	
Exon	Mitchell	

NAYS—39

Armstrong	Hatfield	Packwood
Bond	Hecht	Pressler
Boschwitz	Heinz	Quayle
Cochran	Humphrey	Rudman
Cohen	Karnes	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
Dole	Lugar	Symms
Domenici	McCain	Thurmond
Garn	McClure	Trible
Gramm	McConnell	Wallop
Grassley	Murkowski	Warner
Hatch	Nickles	Wilson

NOT VOTING—3

Biden	Evans	Helms

The PRESIDING OFFICER (Mr. SHELBY). On this vote, the yeas are 58, and the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OPENING THE PACIFIC FRONTIER

Mr. MURKOWSKI. Mr. President, I would like to share with my colleagues an experience that the junior Senator from Alaska had that occurred approximately 2 weeks ago from the date

of last Monday. It is of interest to this body because it is a graphic display of the easing of tensions that is occurring with the Soviet Union.

The significance of this event, Mr. President, involved the opening up of the Pacific frontier, a gateway that has been closed even more so than the Iron Curtain in Europe, and I refer specifically to that boundary between Alaska and Siberia.

Mr. President, prior to 1948, that boundary was an open boundary. Alaska native people, Eskimos on both sides, had an opportunity to visit their respective families. Unfortunately, as a consequence of the increased tensions, that boundary was closed in 1948. But 2 weeks ago last Monday, that boundary was again opened.

The ice curtain, so to speak, was lifted and for the first time in almost 40 years. A group from the State of Alaska, led by our Governor, myself, various officials of the State of Alaska, and a number of our Eskimo people, journeyed from Nome, Alaska, to Provideniya.

Provideniya is an extraordinary community. It is one of the northernmost ports on the Siberian frontier. The trip was made in an Alaska Airlines 737, landing on a gravel strip in Provideniya which, in itself, was quite a feat.

The total coordinated effort required the dedication of many, many people, including many people from the State of Alaska, those in State government, my own staff, as well as the State Department, which gave us excellent cooperation, and principals in Moscow that had helped us when we first made the request during a visit to Moscow over the Easter recess.

It also involved the cooperation of the American Embassy in Moscow and the Soviet Embassy in Washington, DC. I cannot tell you how effective Ambassador Dubinin has been in his encouragement and belief in the significance of this new frontier opening. The Soviets cooperation, indeed, is showing the entire world that both our nations are serious about reducing this tension.

One of the most significant events that occurred was the meeting of our Alaskan Eskimo people with the Siberian counterparts that they had not seen for many, many decades. It was expressed in a dance that was held in Provideniya, in the town hall. Some of our Eskimos were adorned in Hawaiian shirts. And they joined their Eskimo brothers from Siberia, who were dressed in the native costumes of dance, and they proceeded to dance together in the dances that were historical within the tradition of the Eskimo people. Of course, they spoke the same language.

But that coming together—that meeting—was truly a dramatic moment and one that we all shared and revered. That is the true meaning, of the easing of tensions; when people who have had families that had interchanged can again renew those acquaintances.

The significance of the opening of the ice curtain between Alaska and Siberia is expressed in other ways that I think will have lasting benefits along with the cultural significance of the event. As some of us know, the American tourist is a unique personality and given the opportunity to visit new areas more often than not will choose to do so. We anticipate, as a consequence of this opening, an opportunity to extend tourism in Alaska over to Siberia. That marks some unique opportunities, both for air connections between Alaska and Siberia; but also surface vessel transportation, as well. Opportunities to visit St. Lawrence Island and some more traditional Eskimo villages that previously have been off the track, but would be available as a consequence of some of the proposals that are being developed.

Provideniya itself, as I have indicated, is a major port for transshipment into the Arctic. There are about 5,000 to 7,000 people who live there. It is relatively stark and certainly remote. It is much colder than our side. It seems the Japanese current comes up the west coast but does not necessarily move over on the Siberian side. But we were greeted with what amounted to a holiday, since we were the first visitors to come in there. The children were out en masse. They had their flags waving.

The customary restrictions were substantially eliminated. Alaskans had been told that they must have passports or some birth certificate type of identification; we were told driver's licenses would not be accepted by the Soviet authorities. But the Soviet authorities relaxed those restrictions. Rather than leave some of our people on the airplane in Provideniya, they allowed them to get off with sufficient identification, being, in fact a driver's license.

I point this out simply to indicate the extraordinary spirit of camaraderie that was evidenced during that time.

Also, there was an effort, by an organization called Alascom, to provide the whole world with an opportunity to view this extraordinary spectacle. That was done by the flight of a large aircraft the previous day that brought in a portable earth station. The earth station was put up right in the middle of the downtown area and provided to be not only a curiosity, but a means of instant communication.

I had the privilege of picking up the phone there in a mobile trailer and phoning my office in Alaska. I got through much quicker than I can get through here in Washington, from the floor to the office, to give you some idea of the capability of communication. That particular satellite that the ground station was hooked up to, for those who are interested is located over the Equator. But nevertheless, from Provideniya to the Equator to my office was the routing of the call.

Additional interest in tourism, as I began to indicate earlier in my remarks, comes from the uniqueness of Provideniya itself. There are some arts and crafts in the community that are made from seal and leather that is made from reindeer. This would be attractive to tourists. The idea of a 1-day tour is being proposed by various tour operators, including Exploration Cruises, and Alaska Airlines is offering the tourists an opportunity to share a unique part of the world by a combination of an airplane trip into Provideniya and a day's visitation there, and then taken back from Provideniya by boat with stops in St. Lawrence and on to Nome.

The opportunity for other exchanges in the scientific area are available and exciting because we have some unique engineering challenges ahead. The dynamics of the movement of ice on proposed platforms that are to be constructed in search of oil and gas in those northern latitudes provide challenges to our scientific community.

The fact that both our peoples live in darkness for a good portion of the winter and the unique effect of that on the psychology of people living in the Northern latitudes leaves a lot of things that we can share and evaluate and study. This trip has opened up an exciting new prospect for medical exchange and communication.

So, as I report this to you, Mr. President, I think our trip from Nome to Provideniya marks a significant reduction in the tension between our two nations. It is interestng to note that it was followed up by an announcement by the Soviets of another expedition tracing the route of the Vitus Bering, one of the earliest explorers of the South Pacific, to Alaska. That journey is underway in two 40-foot boats from the Vladivostok area and they will be traversing many thousands of miles of sea, calling on Dutch Harbor. They will put up a monument in Yakutat, commemorating the 250th anniversary of that famous expedition. They will also visit Sitka, the former Russian capital of the New World.

So we are seeing a renewal of interest on the Alaska-Siberian border from the standpoint of access in that area. I think it is enlightening to us all, as we reflect on the merits of glasnost, that this first effort to open up new areas between Alaska and the Soviet Union was a grand success. I join with my senior colleague, Senator STEVENS; my good friend, Representative DON YOUNG; our Governor; and all Alas-

kans in observing significance of this step forward which, though seemingly small, has great historical merit. When one reflects on the reality that the land bridge that used to exist between Asia and North America was in that very area that I am speaking about, and the fact that a good deal of North American civilization originally came over that, we have seen the renewal, the reopening of this area. It is significant, and it is most meritorious that it has finally occurred.

That concludes my remarks, Mr. Chairman. I want to thank the floor managers and the minority leader, who I see is on the floor now, for allowing me to proceed as in morning business.

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

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

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. DOLE. Mr. President, first let me say with reference to the cloture vote, it is my hope that we could still complete our business fairly early today. I know many Members on both sides have travel plans so they can be in their States for the Fourth of July weekend. Hopefully, that recess could be extended.

Cloture was not invoked, and the pending amendment is the amendment of the Senator from California, Senator WILSON. There will be other amendments filed at the desk, and I thought I indicated one amendment that has been or will be filed by 1 o'clock will be the proposed plan based on Massachusetts plan signed into law by Governor Dukakis.

The Massachusetts model plant closing has several advantages that I think ought to be incorporated, and it can be offered as a substitute, if it comes to that. It has some advantages. First of all, it is voluntary. No employer is forced into adherence to an arbitrary standard. Rather, the State utilizes the incentive approach and conditions a company's receipt of State assistance on the company's pledge of responsible corporate behavior.

We have all agreed that a flat 60-day notice standard is unreasonable in every case. So the Massachusetts law wisely acknowledged that the standard cannot often be applied for very good reasons and have incorporated various exemptions and exceptions into the bill.

We incorporated one yesterday with reference to drought and natural disasters. You cannot expect the employer to give notice if he suddenly goes out of business because of some act of God that he cannot control. We have added that to the Massachusetts plan which is pending at the desk.

Also, while maintaining flexibility for business, the law created a carrot, encouraging employers to require advance notice for employees. As we noted previously, the proponents of the Senate bill premised this on the assumption that employers are recalcitrant about meeting the needs of employees who may face layoffs.

The assumption of many of us is that employers derive no special joy from withholding notice, and most employers, if they have to have a layoff, expect those employees to come back. They do not do it because of any reason except economic. There is not any hostile intent or malice.

As I say, they derive no joy from having to shut down part of their business.

No. 2, the Massachusetts plan is a true test of plant closing. Ninety percent of the workers must have been permanently separated. They also incorporate a better test in the case of layoffs and actually take into account consideration of local labor market conditions.

The Massachusetts plan deals with retraining workers and developing enterprises. This is more positive than the bill before us which will not save a single job. That is another reason for some of the opposition.

Finally, resources might certainly be better utilized for actual worker adjustment than under 2527 which simply invites the expenditure of billions of dollars in litigation.

So I hope, at the appropriate time, we might give serious consideration to the plan. I have heard the Governor of Massachusetts talk about his plan, how you need to give layoff notice for those employees who may be laid off or plant closings, keeping in mind this is a voluntary plan, not a mandatory plan, and that it has a lot of areas that are much different than the bill before us now. It may be something we can just on a bipartisan basis agree to.

I certainly cannot think anybody would oppose a plan that has some of the features that I have described, and there will be other features I will describe in greater detail later on.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask unanimous consent that I might proceed as if in morning business.

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

The Senator from Connecticut is recognized.

COMMENDATION OF THE VICE PRESIDENT'S LEADERSHIP

Mr. WEICKER. Mr. President, I rise today to applaud the Vice President for the leadership he has demonstrated in calling for an Executive order and legislation prohibiting discrimination against people who have the AIDS virus. By endorsing the recommendations of the President's own Commission on AIDS, Vice President Bush has done what few in this administration have to date—and that is to act on the facts and the advice of the experts. For too long, the response of this administration to the AIDS crisis has been to moralize, delay the dissemination of vital information to the American public and leave the responsibility for guaranteeing privacy, confidentality and equal protection under the laws to the States.

Not long ago, I took the opportunity to commend the AIDS Commission and in particular Admiral Watkins, its chairman, for issuing a final report that was both courageous and fair. Among its findings was this statement: "HIV-related discrimination is impairing this Nation's ability to limit the spread of the epidemic." Yesterday, the Vice President joined Admiral Watkins and other Commission members in concluding that the Federal Government should protect AIDS victims against further victimization in the form of prejudice and discrimination.

Beyond that, the Vice President stood up and was counted on the issue of how we are going to treat people in this country who are sick and need our help. That is leadership.

Today, I am calling on President Reagan to exhibit the same kind of leadership by joining the Vice President in endorsing the recommendations of his own Commission. It was 1 year ago that the President issued the executive order creating the Commission to advice him on the public health dangers, including the medical, legal, ethical, social and economic impact of the epidemic. The President asked the Commission to recommend measures that Federal, State, and local officials could take to protect the public from contracting the AIDS virus, assist in finding a cure for AIDS and care for those who already have the disease.

The Commission has done its job and done it well. The time has come for the President to do his.

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

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

The Senator from Louisiana.

CORRECTING WHAT COULD BE A MISIMPRESSION

Mr. JOHNSTON. Mr. President, I take the floor to correct what could be a misimpression caused by an article in the Wall Street Journal today about the distinguished Senator from Ohio [Mr. METZENBAUM]. I was quoted on a couple of occasions in that article in such way as to give perhaps the impression that the Senator from Ohio and I are not, in fact, allies and friends and close workers together.

In fact, we are not only friends and allies on many issues, but as I told the reporter for the Wall Street journal when he called me, I have enormous respect and affection for Senator METZENBAUM. He is a tough battler and I, on occasion, will do the same thing. Tough battlers will frequently draw some sparks, and we have drawn some sparks.

They quoted some of our comments in the Energy Committee on one particular day that drew some tough sparks, but the record was not quite complete because it did not show that just within about 60 seconds after the sparks were drawn mutual apologies were made to the effect that we both perhaps had overstated our cases, and we left the committee better friends than we had come into the committee.

I do not know whether that article left that impression, but to the extent it might have I want to set the record clear. The Senator from Ohio is not only a friend, but he is one of the most effective legislators in this body, and he does in fact stand as Horatio at the gate sometimes guarding against matters in which I am interested and sometimes guarding against matters in which others are interested. While many of us disagree on occasion with what he is doing, as far as this Senator is concerned, his contribution to the national interests not only as a Senator but playing the role of guarding against bad legislation is of enormous value to the country. I simply want to make the record absolutely clear on that point.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank the Senator from Louisiana. He and I are good friends. We work together very well. There are occasions, of course, when we differ, but that is part of each of us doing our respective jobs. I am grateful to him for having seen fit to take the floor and comment on this subject, something which was totally unnecessary, and I thank him for having done so.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate the unfinished business.

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

The bill clerk read as follows:

A bill (S. 2527) to require advanced notification of plant closings and mass layoffs, and for other purposes.

The Senate resumed consideration of S. 2527.

Pending:

Wilson Amendment No. 2487, to take into account inability to operate due to shortages of supplies created by government programs or other reasons.

Mr. BYRD. Mr. President, the Senate will not be in long today. The vote on cloture failed. There will be three cloture votes on Wednesday next. There will be a cloture vote on Thursday in the event that we fail again on Wednesday.

I am not sure that I will make another effort if the votes fail on Wednesday and Thursday of next week. This is the sixth day that the Senate has been on this bill. The Senate has had ample opportunity to come to grips with the bill and to pass it. I hesitated for 4 days to enter a cloture motion. I hoped we would be able to pass the bill without going to cloture. Finally, I saw that that was the only way to get the bill passed by today.

The Senate is scheduled to go out at the close of business today for the Independence Day break. I had hoped that the bill could pass and be sent to the House no later than today. The House is waiting on this bill. The House will go out sometime tomorrow. We are going out today. As far as I am concerned, we are not going to stay around here all afternoon and fiddle-faddle about this bill. We all know what the issues are. We have had our chance at cloture, and we did not elect to invoke it. So I am saying to the Senate, go ahead and make plans, be back here on Wednesday next week, and we will have another opportunity to adopt cloture on this bill.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The clerk will report the motion.

The bill 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 S. 2527, a bill to require advance notification of plant closings and mass layoffs, and for other purposes.

Senators: Paul Simon, Claiborne Pell, Howard Metzenbaum, Harry Reid, Bill Proxmire, John Melcher, Daniel P. Moynihan, Frank Lautenberg, Tom Daschle, Daniel K. Inouye, Tom Harkin, J.J. Exon, Albert Gore, Jr., Christopher Dodd, Edward Kennedy, and George J. Mitchell.

Mr. BYRD. Mr. President, I am going to yield shortly to the distinguished Republican leader. If there is an inclination on the other side of the aisle—every Democrat voted for cloture. I believe there were five of our Republican friends who voted for cloture. If there is an inclination on the other side of the aisle to come to an agreement and pass this bill today, I am very receptive to such an agreement. Otherwise, I would suggest that we go back on retail price maintenance. I am inclined to go back on that so we do not fiddle-faddle around here with these little amendments that really mean not a lot except perhaps to just have votes. We will go back on retail price maintenance now, and we will come back to this bill on Wednesday next. I am not inclined to stay in beyond 5 o'clock today.

Mr. President, I am happy to yield to the distinguished Republican leader, or I will yield the floor, whichever he prefers.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I think there might be a possibility of completing action on the bill today depending on what the agreement might be. If it is just to do it now and say we are not going to offer any more amendments, that is probably not possible. But there may be a way to do it. We have had some discussions with some on the other side. We have an amendment pending right now that was laid down last night so there would not be any delay.

I repeat, all of the amendments that have been offered on this side have been relevant to the subject matter. Some may have been technical, others I think were broader; they were clarifying provisions in the bill. There have not been any amendments offered to flat out delay. There was some discussion about offering the death penalty and other amendments that Members know about if you really wanted to delay, had no relevance to the bill at all. That has not been done on this side. We have tried to have Members cooperate, and they have been very cooperative on this side. They offered amendments that affected only a provision of the bill or an exception to provisions in the bill.

We are prepared to proceed again without delay on the amendment by the Senator from California, Senator WILSON. I hope we might continue doing that to see if there is any way at all we might resolve the differences. If there is not, I think the majority leader stated it very clearly; we will be back here Wednesday, there will be another cloture vote, and if cloture is

invoked, I assume by Friday we may complete action on the bill.

But certainly we are willing to. I think I speak for those—I am not one of the principals—principals who are managing the bill on this side. We are willing to A, proceed, B, to negotiate, and then try to finish it today, and then extend the recess through next Wednesday, Thursday, and Friday. So we have been on this bill for some time. It was part of the bill that was vetoed. The veto was sustained. It has been an effort by the majority, and I do not fault the majority, to get it done before the Democratic convention. I do not fault anyone for that. We may be able to accommodate those on the other side.

We hope we will have a bill that will pass the Congress that might be signed by the President of the United States. Maybe that is not possible. But that has been the goal of the Republican leader and others on this side. I know the President is opposed to the bill in its present form I think with justification.

So we are willing to work with the leader this afternoon, and to indicate if we cannot make progress there is not much use in just staying here. But we are prepared to offer amendments, amendments that affect provisions in the bill or exceptions to provisions in the bill, or there may be a substitute. I notified Senator WILSON to head this way if we want to do that.

Mr. METZENBAUM. Will the minority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. METZENBAUM. First, I never heard anybody—and I am one manager of the bill; it is my bill—make any observation about wanting it before the Democratic convention. As a matter of fact, I met with the Democratic candidate this morning. He never mentioned any urgency about that. So I will say to my colleague that is really not a concern. I feel, I think as others do, that this is an issue that has been debated upside down, backward, forward and whether we have cloture or not, I think at some point we are going to bring it to a final vote. I think we will get cloture. I think the minority leader would be prepared to agree to that. I wonder whether or not we might get some agreement to have an up or down vote, and final passage like at 4 o'clock, 5 o'clock this afternoon without cloture, and all the amendments that are pending we can vote on them. We can vote them down en bloc if you want or we can vote them down individually.

Mr. DOLE. Or up.

Mr. METZENBAUM. Or up. There is always that possibility. But I wonder whether there might be some possibility of finalizing this measure yet today by unanimous consent agreement rather than waiting until we get cloture and then having the 30 hours run.

Mr. DOLE. As I said, I think from the start, we would try to cooperate with the majority, we want to get the business of the Senate done, and we would make every effort to work out some of the problems. An up or down vote on this bill might not be possible. But an up or down vote, if there were certain changes made, I think, is very possible. Maybe they do not want to make any changes. There is no other urgency to this bill that I can see. We have had a lot of time on Senate matters and the bill was brought up. Certainly the majority has a right to bring the bill up. For some reason, it has become a very high-priority matter. It is not part of the trade bill. It has nothing to do with trade. It would not increase exports one iota. It would not do anything about imports. We are in an economic recovery. We do not have a lot of plant closings. We have more openings than closings by far, but suddenly this has become a big priority. I think people just have to judge why that is so. I do not think there is any debate on why it is a priority. But I know it is big on organized labor's list. They have a lot of clout in this body.

Mr. METZENBAUM. Eighty-six percent of the people want it. That is enough reason for priority.

Mr. BYRD. Mr. President, I am not seeking the floor away from the leader.

Mr. DOLE. I am happy to yield the floor if I can get it back.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. This leader is not dancing to the tune of organized labor or anybody else. And I made that very clear in my meetings with the labor leaders, and other Senators were present in those meetings. Organized labor has a good friend in this Senator. I could not be anything other than a good friend of labor, having come up as the son of a coal miner, and having married a coal miner's daughter. I speak the coal miner's language. But I said to Mr. Bieber, Mr. Kirkland, and other labor leaders that the reason I am supporting plant closing on the trade bill is because the House has problems without it. I said that the Speaker and I had promised, at the start of this Congress, to put on the President's desk something that he had been running from for 6 years, a trade bill. The plant closing amendment was added to that trade bill in this Senate. I did not offer the amendment. I did not promise at the beginning of this Congress to put a plant closing bill on the President's desk. I promised to put a trade bill on the President's desk. But the plant closing amendment was offered to the trade bill in this Senate. I supported it. Why? Because it is decent, it is fair, it is right, it is just. I said to them, I want a trade bill. And if this stays on that trade bill, I think the bill will be vetoed and we may not be able to override the veto. And there goes the trade bill.

But it is not because of you that I am staying with it on the trade bill. It is because the House, at that time, would have had difficulty in passing the trade bill with plant closing taken out of the bill. With all of the comments about labor having clout in this body, labor should have the same right to be heard as does anyone else, but here is one of labor's friends who does not hesitate to stand up and speak frankly to labor.

Now, as to what is pushing this bill, giving it priority. I say to my good friend, the Republican leader, whether we get this bill finished before the Democratic Convention or not could not amount to a hill of beans with this Senator. I do not think there is any better Democrat over here than I. But there are a few things I put ahead of my party. The reason I make this bill a top priority right now is because I have a view of the whole schedule for the rest of the session. I would like to see the Senate and the House adjourn sine die by September 30, and, for one time in the last 17 years, pass the appropriations bills well in advance of the new fiscal year.

I am interested in finishing this bill because I want to do it before the trade bill comes over from the House. There are many other bills that also await action. We have 48 working days left, going to October 8, which is a Saturday, and including October 8, and including today.

If we call up the trade bill and this plant closing bill flounders here on this floor and does not go to the White House soon, we know we can expect plant closing to be right on the trade bill again.

So those of us who want a trade bill, want this legislation separate. The President has made his bed. Let him lie in it. He vetoed the trade bill on the pretext that plant closing was a part of it. Now we are separating this out.

I would still like to have a trade bill. That is why we have a priority on this bill, to get it now. Now is the time. Here is the window. Then after the convention, perhaps after the Republican Convention, I do not know which, we will do the trade bill. We have the United States-Canadian trade agreement. We have a number of other bills which I have discussed with the distinguished Republican leader. I have not had anything up my sleeve—nothing.

That is my priority, the Democratic Convention notwithstanding. That has absolutely nothing to do in my think-

ing, so far as scheduling the business on this floor is concerned.

Now is the time we have set aside for this bill, then we will be ready to do the appropriations and other bills. I have been trying to get an agreement on appropriations bills. The distinguished Republican leader has been trying to get an agreement to help me take up the appropriations bills. He has a problem on his side. I still hope we will get an agreement on the appropriations bills; but if we do not, we will just take them one at a time. We can do that.

Let any Senator on that side who wants to do so stand up and object, after this President has said, "Send me those appropriation bills separately." He made a big show of coming to the House in the State of the Union and dumping a big bill on the desk and saying he did not want any more funding bills like that one. He wanted Congress to send them down separately. I, too, want to send appropriations bills down separately.

Yet, he himself was part of the reason why he had that big bill to dump on the desk. One of the reasons why Congress did not send those separate appropriation bills to the White House was because of this President. It took him all year, almost, before he was willing to sit down and work out an agreement, a bipartisan agreement on the budget with Congress.

Then came the stock market crash, and he finally sat down and was willing to work out an agreement. It took us 4 weeks to do that, and by that time it was about time we all had to quit. It was the threat of a sequester and the stock market crash that brought the President, this President, to the table. He did not want a sequester and we did not, either. So, finally, we worked out an agreement. It took 4 weeks to do that.

Now we are trying to send down these separate appropriation bills; and let any Senator on the other side of the aisle stand up and object when I ask consent to go to an appropriation bill. Let him answer to the President as to why he is objecting to our taking up an appropriation bill.

I will welcome an agreement. But I am not going to walk around with my hat in my hand, asking for that agreement, any longer. I know that the Republican leader is trying to get it. He has problems with someone on his side.

The Republican leader has been very cooperative. That is why we have had four appropriation bills passed already. But time is running out. Senators can either give me an agreement, or we will take the bills one at a time, deal with them one at a time, and be around here until we finish our work.

Mr. KENNEDY. Mr. President, I would like to address that issue with the leader, in setting aside the plant closing legislation. I would like to be heard.

Mr. BYRD. Mr. President, will the distinguished Senator yield? I beg his pardon for interrupting. I have the President of Turkey waiting in my office.

I ask unanimous consent that when the distinguished Senator from Massachusetts has completed his statement, and the distinguished Republican leader has finished his statement, the Chair lay before the Senate the bill to amend the Sherman Act with regard to retail competition.

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

Mr. KENNEDY. Mr. President, first, I commend the majority leader for both leadership on the issue and his perseverance on this matter, which is of enormous importance and consequence to families across this country, and I again pay my respects to the Senator from Ohio for the extraordinary leadership he has provided.

The point has been made by the minority leader about this being a high priority in terms of organized labor. The fact is that most members of organized labor do already receive notification; but, as we saw during the course of this debate, nonorganized only received an average of 2 days.

The truth in this particular debate is that we are in this fight because we are fighting with organized business. We have been on that bill now for 6 days. We have handled some dozen amendments.

Now we have tried to stop a filibuster. They would not admit it was a filibuster. They held what I call a "frivolobuster," with trivial amendments.

The Republican opposition has stopped the bill until next week. We could not get 60 votes to give workers 60 days.

The American people want this bill, by a huge margin, and a handful of Republicans have blocked this matter of simple fairness. Workers want notice, and the Republicans have served up delay.

I hope that the next time we come to grips with this measure, we will be able to get cloture and get on with this measure and get this very important legislation to the President; that if he will be advised to veto it, we will override, and give fairness to the families of America on this issue.

Mr. DOLE. Mr. President, it seems to me that we ought to stay on this bill if we want to finish it. If it is of such high priority, we ought to stay on it. We have an amendment pending, and we should see what happens.

We have the Massachusetts plan pending, which I am sure will sail through this Chamber. It is voluntary. It is of great interest to the Senator from Massachusetts, who is leaving the floor, and others.

Let us vote on the Dukakis plan. Let us see how many votes the Dukakis plan has. He has been criticizing the President and others. It will be filed before 1 o'clock and will be brought up when cloture is obtained, if it is obtained.

But I think the record ought to be very clear that there has been no filibuster on this side. We have made seven or eight changes in this bill, which was supposed to be perfect.

This bill is going to require small businessmen and businesswomen with more than 100 employees to file reports. Thousands and thousands of small businesses are never going to know about this bill until it hits them. They are going to have to file reports.

There is some feeling on the other side that employers get some kick out of going around telling people they are laid off. The people who create the jobs in this country have some rights. We all want employees to have notice. In most cases, they have notice of either closing or layoffs, except in some natural disasters, and that is one of the amendments now included.

We are going to have 22,000 manufacturing companies alone that are going to have to file reports under this bill. More government—more government control. That is what organized labor wants. They get every vote on that side of the aisle—every vote.

This is not a priority. We should not be standing here on a Wednesday or coming back next week. We have been moving legislation very rapidly in this Chamber, with a lot of cooperation on both sides. And we will continue to have that. But this is a priority for the Democratic Convention. We will stay here all night, next week, I assume, anything to get it done.

The House is supposed to take it up today, but somehow those plans were foiled. Maybe they will not have time to take it up tomorrow, so it will be next week. And maybe we are going to be back here next Wednesday, Thursday, and Friday.

But I think the record ought to indicate that this is not a matter of great moment. The economy is rolling along. More and more plants are opening. More and more jobs are being created. More and more people are going to work, over 16 million since Ronald Reagan became President.

This is high on the labor list, and that is fine. There are a lot of working people and they have a lot of rights.

It seems to me that is what it all boils down to. We have not met with labor leaders. They have not been around to see the leader on this side, so I cannot tell you what I told them. But we cooperate with labor leaders. They are a powerful force in this country. Unfortunately, they support about 99 percent of the people on the

other side of the aisle, at least the leaders do, not the rank and file.

So let us go ahead. We are on another bill now, or when I complete my statement we will be. Let us stay on this bill if it is such a high priority. Why go off the bill at 12:30 if it is a priority? We have an amendment pending. It can be voted up or down.

I will offer the Massachusetts plan. The Governor was here earlier. Maybe he has had a chance to take a look at it. We will see what the vote is on that, because he is for giving notice, but, in his State, he wants to give notice and it has to be voluntary, which is a good idea. The Senator from Indiana had a voluntary notice provision bill.

So we are willing to work. We have been working. There have been no death penalty amendments offered, no abortion amendments, no prayer in school amendments, no effort to delay this.

These are not trivial amendments that have been adopted. They are very important amendments offered, for the most part, by the distinguished Senator from Utah, Senator HATCH, who is an expert in this area. Through his staff and his studies he has found areas that ought to be clarified in case this bill should finally pass in the event the President's veto, if he vetoes it, should be overridden.

So we are hoping that by 1 or 1:30 we will get back on the bill.

In response to the Senator from Ohio, we would like to finish action on the bill today. We are prepared to finish action on the bill today. The last we heard last evening, there was some hope of making a few changes in the bill that might have made that possible. But that has all been, as I understand it, pushed off the table.

It is unfortunate because, again, there are some who will not give an inch. That is a choice that has been made. We will see what we can do on this side. We will have a meeting of the principals on our side later in the afternoon. Hopefully, we can present something that might be of interest to the manager of the bill and the majority leader.

I wish to say to the majority leader that we are still trying to get agreement on appropriation bills. I agree with the majority leader that the President wants the appropriation bills and we ought to bring up the appropriation bills. They ought to be passed. They ought to be sent to the President one at a time.

I hope, before the day is out, we will have an agreement that will permit the majority leader, after consultation with the minority leader, who will then consult with the distinguished Senator from Oregon, Senator HATFIELD, to start moving on these appropriation bills the week after next.

RETAIL COMPETITION ENFORCEMENT ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report Calendar Order No. 525, S. 430.

The assistant legislative clerk read as follows:

A bill (S. 430) to amend the Sherman Act regarding retail competition.

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

That this Act may be cited as "The Retail Competition Enforcement Act of 1987".

SEC. 2. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States, or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices, if there is sufficient evidence from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale—

"(1) received from a competitor of the claimant an express or implied suggestion, request, or demand, including a threat to discontinue an existing business arrangement, that the seller take steps to curtail or eliminate price competition by claimant in the resale of such good or service, and

"(2) because of such suggestion, request, demand, or threat terminated the claimant as buyer of such good or service for resale or refused to supply to the claimant some or all of such goods or services requested by the claimant,

then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section. A termination or refusal to supply is made 'because of such suggestion, request, demand, or threat' only if such suggestion, request, demand or threat is a major contributing cause of such termination or refusal to supply.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change, or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section.".

Mr. METZENBAUM. Mr. President, we now take up S. 430, which more appropriately might be described as the consumer rights act. It is a bill that, in essence, relates to the right of a discounter to sell his or her products at less than a price agreed on by a manufacturer. I am not certain why anyone would be opposed to this bill, but there is opposition.

The bill ensures consumers that they have the right to shop where they want—in discount stores or full-price stores. The whole free enterprise system, as I see it, the whole concept, is addressed in this piece of legislation because in the free enterprise system we support the concept of competitiveness—the right of a farmer to sell his products or her products at whatever price he or she deems appropriate; the right of a storekeeper to sell his or her products at whatever price he or she deems appropriate; the right of any person who is in business to set their own prices. But there is an effort and there is a push to try to make dealers sell the products of manufacturers at the prices agreed to by the manufacturers.

I say to my colleagues in the Senate, I just do not understand why anyone would be opposed to a bill that supports consumers in their effort to buy products at discount prices. We have already discussed at an earlier point on the motion to proceed the specific benefits to consumers, retired persons, and small business people. We are referring to the fact that in a study made by my own staff, we were able to find that clothes could be bought at 30 percent less in discount stores and toys at 22 percent less and electronics at 18 percent less, and that the average family can save, according to the best studies, about $550 a year by buying at a discount.

Now, what and why would anybody be opposed to that? The opponents try to complicate the issue and raise questions about this bill. Listening to them you would think the world would come to an end if this bill were to pass. But quite the opposite is the fact.

This bill is the most important antitrust issue facing consumers in this Congress.

As a matter of fact, it is the most procompetitive piece of legislation that we could possibly have come before us. It is the most profree enterprise piece of legislation that we could have come before us.

I have received a lot of correspondence about this bill. Some of it responds point by point to the critics' arguments about the bill. Two letters, in particular, are from law professors, not biased, but eminent scholars in the antitrust field. One came from the University of Chicago, where many of the opponents of this legislation teach; the so-called Chicago school. Another came from New York University. Both the letters speak plain and clear facts. Neither has been hired to support this bill.

Mr. President, I ask unanimous consent to have those letters printed in the RECORD, one from the University of Chicago, a five-page letter signed by Diane P. Wood, assistant professor of law; and the other from New York

University, a six-page letter, signed by Harry First, professor of law at NYU.

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

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, March 10, 1988.

DEAR SENATOR: I am writing to express my support for S. 430, The Retail Competition Enforcement Act of 1987. I do so because I have been concerned by recent materials in the press that have inaccurately described the scope and likely consequence of this legislation. As a professor of both antitrust and civil procedure, I believe that I may in a good position to dispel the more extreme predictions and show why the bill should be passed.

S. 430 accomplishes two objectives: (1) it adds a new section 8(a) to the Sherman Act, which clarifies the standards set forth in the Supreme Court's decision in *Monsanto Co. v. Spray-Rite Service Corp.* [465 U.S. 752 (1984)] with respect to the kind of evidence that is needed to reach a jury in a resale price maintenance case, and (2) it adds a new section 8(b), which has the effect of codifying the *per se* rule against vertical price fixing that was first established in the decision in *Dr. Miles Medical Co. v. John D. Park & Sons Co.* [220 U.S. 373 (1911)]. Both of these changes are necessary in order to preserve the desirable balance between manufacturer discretion over distribution methods and unfettered distributor or retailer competition that presently exists in our economy, which has served consumer welfare so well.

Because the effectiveness of the codification of the *Dr. Miles* rule depends in large part on the kind of evidence that sufficies to prove an unlawful agreement, I shall discuss section 8(a) first. Essentially, section 8(a) cuts off the more extreme interpretations of the *Monsanto* opinion that have arisen in lower courts, by assuring that juries will still be able to find an agreement on the basis of certain circumstantial evidence. Nothing in the bill imposes liability on truly unilateral decisions by either manufacturers or dealers, which continue to be protected under the doctrine announced in *United States v. Colgate & Co.* [250 U.S. 300 (1919)]. Nor does the bill adopt the evidentiary standard that the Supreme Court rejected in *Monsanto* itself, under which a court could infer agreement between a manufacturer and a distributor from the simple coincidence of distributor complaints about one of its competitors followed by the manufacturer's action in terminating that competitor. The Court said:

"Permitting an agreement to be inferred merely from the existence of complaints, or even from the fact that termination came about "in response to" complaints, could deter or penalize perfectly legitimate conduct. (465 U.S. at 763.)

"In sum, '[t]o permit the inference of concerted action on the basis of receiving complaints alone and thus to expose the defendant to treble damage liability would both inhibit management's exercise of its independent business judgment and emasculate the terms of the statute.' (*Id.* at 764, quoting from *Edward J. Sweeney & Sons v. Texaco*, 637 F.2d 105, 111 n.2 (3d Cir. 1980), *cert. denied*, 451 U.S. 911 (1981).)

"Thus, something more than evidence of complaints is needed. There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently." (*Id.* at 764.)

Read in context, it is clear that the Supreme Court's principal concern was to make sure that liability would follow only if there was an agreement between the manufacturer and the nonterminated distributors—that is, evidence that showed that they were not acting independently. The lower court has assumed that a termination following distributor complaints was a termination "in response to" those complaints. The Supreme Court rejected this interpretation, however labelled, even going to the trouble of putting quotation marks around the words "in response to" to show the peculiar meaning the phrase had been given. The opinion then went on to find that the termination of Spray-Rite violated the Sherman Act, because the evidence did demonstrate a prohibited agreement to maintain prices.

The more extreme lower court interpretations of *Monsanto* have lost sight of the Court's result in the case. These courts have granted summary judgment to defendants even when the evidence showed that distributor complaints may have initiated an agreement between distributor and manufacturer to terminate the discounter. This goes well beyond the Supreme Court's decision, which was limited to recognizing the useful functions that an information flow between manufacturers and distributors could serve, and which therefore sought to protect that kind of communication.

S. 430 would put *Monsanto* back into perspective. Under S. 430, a defendant could still obtain summary judgment if the evidence showed only complaints and subsequent termination. On the other hand, S. 430 recognizes that an agreement might exist between the manufacturer and its dealer when (1) the complaining dealer asks somehow for the curtailment of price competition from a discounter, and (2) because of that request, the manufacturer penalizes the discounting dealer. Put in simple terms, if Jones says to Smith "please stop running," and Smith then stops running, a trier of fact should be entitled to decide whether Smith unilaterally decided to stop running or if Smith implicitly agreed with Jones that he would stop. The jury would weigh Smith's credibility against Jones's, and take into account any other evidence that seemed pertinent.

In dealer termination cases under S. 430, the jury would weigh the terminated dealer's version of events against the manufacturer's and the nonterminated dealer's, as well as other relevant evidence. In requiring that the "suggestion, request, demand, or threat" be a major contributing cause of the manufacturer's decision to terminate or to refuse to supply, the bill is wholly consistent with the *Monsanto* Court's recognition that coincidence does not help one decide whether or not an agreement existed.

There is no doubt that section 8(a) of S. 430 will enable more terminated dealers to withstand motions for summary judgment, and will thus increase the number of this type of case over 1988 levels. This is as it should be, however. First, the 1988 levels reflect the extreme applications of *Monsanto*; if the baseline were 1983, the bill would be seen as a codification of existing law that eliminated the chance that agreement could be proved by coincidence. Second, many of the bill's opponents would like to see summary judgment for defendants in all terminated dealer cases, because they disagree with the *Dr. Miles* rule (whether or not they admit it). It is obviously wrong to manipulate procedural rules like the summary judgment rule so that the substantive antitrust laws that Congress has passed can be ignored. The Senate should be extremely skeptical of persons who claim to support section 8(b) of the bill but who argue that section 8(a) would be a disaster. The simple fact is that section 8(b) will mean very little if terminated dealers and distributors can be thrown out of court on summary judgment before they ever have a chance to prove an unlawful agreement to maintain resale prices.

This brings me to section 8(b) of the bill, the codification of the longstanding rule prohibiting vertical price fixing, or resale price maintenance (RPM). Many reactions to the House of Representative's passage of the Freedom From Vertical Price Fixing Act of 1987 (H.R. 585) and to S. 430 are reminiscent of Chicken Little's warning that the sky was falling. Some have gloomily predicted that section 8(b) would somehow destroy manufacturers' abilities effectively to distribute their goods and lead to increased prices and less choice for consumers. The problem with this prediction is that it flies in the face of experience under the very antitrust laws that Congress is seeking to preserve in its legislation.

Since 1911, manufacturers have been prohibited from engaging in resale price maintenance—that is, the practice of requiring their dealers to agree on pricing levels, or formulas, or on other arrangements that would deprive the dealers of discretion over resale prices. Under this legal regime, methods of distribution have proliferated, and consumers have had the choice of patronizing either full-service stores, general purpose budget stores, or minimal service discounters. This has had the effect of increasing, not decreasing, consumer choice. When consumers did not want the extra services that the full service stores offered, they voted with their feet, just as they should in a free market economy.

Ordinarily, one would expect unanimous approbation of this result. This kind of dealer and consumer freedom can be detrimental in only one circumstance. For some extraordinarily complicated products, manufacturers may want dealers to provide presale services that cannot conveniently be separately priced, such as a well trained sales force or an attractive showroom. In those cases, it is undesirable for Dealer 1 to go to the expense of providing those services, only to see the customer cross the street and make the final purchase from Dealer 2, a discounter who is "free riding" on Dealer 1's efforts. Dealer 1 will eventually cease providing the services, and both manufacturer and customer lose.

Nothing whatsoever in S. 430 prevents manufacturers from taking steps to prevent this kind of free riding. They may require all authorized dealers to maintain a certain kind of sales force, to stock their products at specified levels, and to conform to minimum standards for showrooms. No one has ever argued that RPM is the only way to achieve these objectives, even though most economists believe that RPM in theory is one tool to prevent free riding. The question for the Senate, however, is not whether a graph can be drawn that illustrates this proposition. It is, instead, whether the antitrust laws should continue to prevent RPM as a per se offense, or whether the courts should be permitted to use either a rule of reason or a rule of per se legality. Since everyone agrees that RPM can facilitate anti-

competitive behavior under some circumstances, and it is clear that many products are not likely to require presale services, the Senate has made the entirely defensible judgment in this legislation that the risks of RPM outweigh the benefits, and that existing judge-made law should receive a formal legislative imprimatur.

Manufacturers also remain free to achieve their legitimate goals by using nonprice vertical restrictions, as long as those restrictions do not unduly restrict competition in the market. It is simply wrong to suggest that the Supreme Court has declared nonprice restrictions to be legal. All restrictions in agreements between manufacturers and dealers are subject to antitrust's rule of reason, which condemns practices that are likely to lead to higher prices and less output for consumers.

It is worth remembering that discounters have been thriving under existing law, to the great benefit of American consumers. S. 430 seeks to assure that they will continue to do so. The per se rule against resale price maintenance has been in effect for seventy-seven years (no thanks to the Justice Department, which was arguing in the early 1980's for its abolition), yet no one could seriously argue that the pernicious effects of free riding have caused useful pre-sale services to disappear from our economy. Since S. 430 preserves the status quo with respect to RPM, it is absurd to claim that its passage would increase free riding for otherwise wreak havoc.

The Retail Competition Enforcement Act of 1987 represents a considered congressional decision on an important matter of national economic policy. Given the amount of debate over the issue, it is entirely appropriate for Congress to assume responsibility for what has been until now a body of judge-made law. (Indeed, one would expect those who have decried excessive assertions of judicial power to be particularly pleased with full legislative consideration.) Far from causing the sky to fall, S. 430's two sections—the codification of the *Dr. Miles* rule and the clarification of the *Monsanto* standards—will assure the continuance of a system that has worked very well.

Yours very truly,

DIANE P. WOOD,
Assistant Professor of Law.

NEW YORK UNIVERSITY,
SCHOOL OF LAW, FACULTY OF LAW,
New York, NY, April 27, 1988.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to urge you to support S. 430, the Retail Competition Enforcement Act of 1987.

This is an important piece of antitrust legislation, for it will help insure the continuation of vigorous competition in the retail marketplace. This competition will be good for consumers, who will be able to choose between "premium" retailers and "discount" retailers; and it will be good for retail entrepreneurs, who will have the freedom to adjust their selling strategies to meet the demands of consumers in the retail marketplace. Consumer choice and entrepreneurial freedom are the linked goals of antitrust. I believe strongly that this bill protects and advances these goals.

S. 430 has two sections. The first section is designed to rein in some of the extreme decisions made in the lower federal courts in the wake of *Mansanto Co.* v. *Spray-Rite Service Corp.*, 465 U.S. 752 (1984). The second section is intended to codify the long-standing antitrust rule that agreements to engage in resale price-fixing are *per se* unlawful under Section 1 of the Sherman Act. I would like, first briefly to describe and explain the two sections of the bill, and, then, to discuss some of the objections to the bill that various people have raised with me.

In *Monsanto* the Supreme Court rejected the rule, followed in a number of the Circuits, that a jury could infer a resale price-fixing agreement from proof that a manufacturer terminated a dealer following competitor complaints about price-cutting. The Supreme Court held that, absent other evidence from which to infer such an agreement, a defendant would be entitled to summary judgment in such a case.

I thought that *Monsanto's* strict summary judgment rule was wrong, because it keeps from the jury evidence from which the jury might reasonably infer an agreement. Nevertheless, I believed that *Monsanto* would have only a slight adverse effect on retail price competition because of the likelihood that most discounter terminations would present more facts than simply a complaint from a competing retailer upset over the discounting. Indeed, the Court in *Monsanto* affirmed the jury's verdict for the discounting retailer, finding that there was, in fact, more evidence of an agreement to restrain price competition than simply the price complaint.

My prediction that *Monsanto* would have limited effect, however, has turned out to be quite wrong. Following *Monsanto*, the lower courts have seized on some of the Court's language and on the Court's apparent willingness to favor full-price retailers over discounters, with some outrageous results. A good example is *Garment District, Inc. v. Belk Stores Services, Inc.*, 799 F.2d 905 (4th Cir. 1986). In that case Jantzen, acting on clearly communicated complaints from a retailer selling at a 100% markup, terminated a competing retailer selling at a 30–35% markup. There was evidence of meetings, a follow-up letter from Jantzen to the complaining retailer, and a pretextual termination of the discounter based on "image." No procompetitive justification for the termination was offered. No special pre- or post-sale services were necessary to be certain that swimwear was properly distributed to the consumer. Jantzen only wanted to keep the complaining retailer happy. Relying on *Monsanto*, however, the court of appeals affirmed the district court's grant of a directed verdict for the defendant. The jury was not even allowed to weigh the evidence, to determine whether the plaintiff was terminated because it was doing an inadequate job as a distributor or because it was an effective price competitor that another retailer wanted squelched.

Belk is no anomaly. A study done in 1986 shows that in more than half the post-*Monsanto* decisions, the courts have granted the defendant's motion for summary judgment or directed verdict. See Flynn, *The "Is" and "Ought" of Vertical Restraints After Monsanto Co. v. Spray-Rite Serv. Corp.*, 71 Corn. L.Rev. 1095, 1102–03 (1986). The simple fact is that it has become very difficult for a terminated price-cutter to put its case before the jury—not necessarily to win, but just to have the opportunity for the jury to hear its case and decide whether it was cut off because it was too successful a competitor.

The first section of S. 430 will change that result. It is intended to insure that in cases like *Belk*, a terminated pricecutting distributor can get its case to the jury, so that the jury can decide the reason for the termination. The plaintiff must still bring in sufficient evidence of 1) a demand from one of its competitors that the supplier "take steps to curtail or eliminate price competition"; and 2) a termination carried out "because of" such demand. If the plaintiff does have such evidence, however, the jury will be given the opportunity to determine whether to infer a price-fixing conspiracy or not. And in making this decision, the jury will, of course, have before it the evidence brought in by the defendant regarding the reasons for termination, including evidence relating to whether the plaintiff was properly doing its job. I see no reason why jurors cannot weigh such evidence and reach an appropriate decision.

The second section of S. 430 codifies the rule that agreements fixing resale prices are *per se* unlawful. This rule was first announced by the Supreme Court in 1911 in *Dr. Miles Medical Co. v. John D. Park & Sons Co.*, 220 U.S. 373 (1911). The rule has been followed consistently in the Supreme Court since then. Even in *Monsanto* the Court was careful to note that such agreements remain *per se* unlawful. See *Monsanto*, 465 U.S. at 763.

Despite the state of the law today, however, I think that codification is important. Although the Supreme Court has stood by the *per se* rule, the Antitrust Division in the Reagan Administration has taken the position that agreements on resale prices between manufacturer and retailer should be viewed under the rule of reason. Unless Congress asserts its legislative prerogative, future administrations might similarly seek to undercut this long-standing rule.

I am not suggesting that the *per se* rule be codified simply because it is a long-standing rule. More to the point, the rule is supported by sound considerations of policy, and by economic history. The policy is the same policy that supports the first part of the bill. Entrepreneurs closest to the consumer should be free to respond to the demands of the consumer in the retail marketplace. Control of resale prices by the manufacterer thwarts consumer choice and builds price rigidity into the distribution system, rigidity which can make it easier for manufacturers to cartelize their industry.

Economic history speaks even more clearly to the wisdom of this section of the bill. Congress actually ran a thirty-eight year experiment with resale price-fixing, and finally decided that it was a bad idea. Beginning in 1937, with the Miller-Tydings Act, Congress allowed the States to permit resale price-fixing on branded goods free of federal antitrust liability. In 1975 Congress repealed this exemption. By the time of repeal, only thirteen states had "strong" exemption statutes, and it was widely agreed that resale price maintenance had artificially raised prices on many goods desired by consumers. Congress estimated that repeal would save consumers $1.2 billion per year (in 1969 dollars).

The flowering of discount retailing in the wake of repeal has borne out the predictions Congress made in 1975 when it decided that full and vigorous price competition at the retail level would best serve consumers and the United States economy. The two sections of S. 430, codifying the *per se* rule and giving terminated discounters the opportunity to enforce this legal rule, will help insure the continuation of this type of competition.

These are some of the reasons which I believe support enactment of S. 430. Naturally, not everyone has agreed with me that this is a useful piece of legislation. In discussing this bill with people, a number of objections have been raised, but I would like to respond briefly to the three objections I have heard most frequently.

Some people have suggested that S. 430 will prevent manufacturers from terminating distributors who do not do a good job, or will prevent manufacturers from requiring distributors to provide a certain level of service. This argument is incorrect. The law today permits a manufacturer to control, through contract, all the behavior of its distributors—except for resale price—so long as such controls do not unreasonably restrain trade. S. 430 does not alter this law. For example, a manufacturer can require distributors to meet sales quotas, require investments in showrooms, require the provision of pre-sale service, require post-sale warranty service, give distributors exclusive geographic territories, and even forbid distributors from reselling goods to certain customers (such as discounters). What S. 430 insures is that where a distributor can provide the type of distribution service the manufacturer wants and *still* offer better prices than a competitor, that distributor will be protected from a termination "because of" a demand from a competitor that the manufacturer do something "to curtail or eliminate price competition." It seems to me that price-cutting behavior in such a case is precisely the type of pro-competitive behavior the antitrust laws should encourage.

A second objection is that S. 430 will result in a flood of frivolous lawsuits filed by terminated discounters. This is a reasonable concern, but one which I believe will not likely come to pass. First, the first part of the statute is aimed at cutting back the progeny of *Monsanto;* it does not adopt the simple "complaint-termination" rule for getting a case to the jury, a rule which had been followed in a number of Circuits prior to *Monsanto.* Even under this more favorable-to-the-plaintiff rule, there had been no flood of frivolous litigation in the courts. I see no reason to expect plaintiffs to bring more litigation under S. 430's less favorable rule. Second, Rule 11 of the Federal Rules of Civil Procedure was significantly strengthened in 1983. It not only requires prefiling inquiry by plaintiff's counsel with regard to the validity of the claim (counsel's signature certifies that the claim "is well grounded in fact and is warranted by existing law or a good faith argument for . . . [change] of existing law"). The Rule also provides that the court can require plaintiff's counsel, or the plaintiff, to pay the defendent's attorney's fees if a pleading does not meet the requirements of the Rule. I can tell you that not only is this Rule being vigorously enforced, but that I have personally seen cases which counsel have refused to bring because of Rule 11. Rule 11 stands as a significant deterrent to frivolous litigation.

If one is worried about the litigation costs associated with adopting the rule set out in the first section of S. 430, then I think it is also important to understand the costs of the common law approach to the termination of discounters which the courts currently are applying. In the short term, I think that the rule has had the unfortunate effect of emboldening distributors to complain about unpleasant price competition; and has left manufacturers more vulnerable to such complaints because they cannot claim that termination will subject them to clear liability. The result may be that *Monsanto* has led to more litigation than the rule it replaced. Further, the real cost of *Monsanto* and its progeny has been that discounters with legitimate claims are becoming increasingly less able to press these claims because of the legal difficulty in getting their claims to the jury. In a sense, they are being deterred by "frivolous" defenses (e.g., pretextual terminations). This means that *Monsanto* has titled the distribution system in favor of full-priced retailers, disfavoring retailers trying to compete on price. Eventually, therefore, we may see very little litigation in this area if S. 430 is not enacted. We should not count this as a benefit, however, for this will mean that we will have lost a significant group of discount retailers who had provided consumers with something they had wanted—lower prices.

The third argument I have heard about S. 430 concentrates on the language used in the first section of the bill. When S. 430 was first proposed, many opposed the bill because of its imprecise language regarding the connection between the complaint and termination. Although I testified in favor of the original bill, I also made it clear in my testimony that the original language was not satisfactory.

Subsequently, this part of the bill was redrafted and substantially improved. The language now makes it quite clear that there must be a causal link between the complaint and termination, rather than simply a temporal link between the complaint and termination. Further, the standard for how significant the complaint must be ("a major contributing cause") is probably as precise a standard as one can hope for in guiding the common sense of the jury in these cases. Of course there will be borderline cases, where the manufacturer acts with mixed motives and jurors will be required to determine which is the major cause of termination. Nevertheless, I do not believe that the business setting of these cases is so complicated that jurors exercising their common sense will be unable to figure out what is happening. If anything, dealer termination cases are probably the easiest antitrust cases to understand that there are.

S. 430 is a good bill. It will insure consumer choice in the retail marketplace. It will permit aggressive retailers to offer consumers lower prices without fear that their higher-priced competitors will be able to force suppliers to cut them off. If consumers do not prefer lower prices (and some do not), retailers will devise some other strategy to satisfy them. This is how competition advances consumer welfare.

S. 430 will permit competition to operate. It is the kind of antitrust legislation we need today. Again, I urge you to support it.

Sincerely,

HARRY FIRST,
Professor of Law.

Mr. METZENBAUM. I urge my colleagues to study those letters and study them carefully. Because studying the issue will show that this bill is very simple. It is elementary.

The issue is:

Do you want your constituents to pay higher prices or lower prices?

Do you want your constituents to have the option of shopping around for the best price—or will they have no choice on price?

Do you want to vote for vigorous price competition—or do you want to facilitate large manufacturers' and retailers' squeezing out smaller, maverick businesses, the retailers who sell at a discount?

Do you believe in free enterprise, or in some theoretical view of competition that is not based on the realities of the marketplace?

I would like to read parts of letters from our constituents saying how they would answer these questions.

Two major groups representing senior citizens support this bill.

The American Association of Retired Persons writes:

AARP supports S. 430 because it strengthens the law that helps guarantee that consumers will have a choice of shopping in discount stores or in full-price stores. This choice enables retired persons or those on low or fixed incomes to purchase needed goods and to enjoy a more comfortable lifestyle.

The National Council of Senior Citizens says:

NCSC believes that consumers should have the freedom to buy products or services at the best possible price—at full price stores or in discount stores at lower prices. The opportunity to stretch one's income is especially important for the elderly, whose incomes generally are not easily responsive to changes in economic conditions.

The letter goes on to say:

It seems odd that this administration, which has defied freedom of choice should abandon this objective when it applies to consumers.

All the major consumer groups support this bill too—not one opposes it:

Consumers Union writes:

This legislation is important in helping to fight consumer price inflation by making the antitrust laws more effective.

Public Citizen says:

The legislation protects robust price competition, which benefits consumers and the economy as a whole. These gains were evident in a recent survey conducted by Public Citizen's Congress watch. The study showed that the buying public could save from 10 percent to 45 percent by seeking out price comparisons on typical Christmas gift items. Price competition is protected by the antitrust laws which prohibit vertical price-fixing—in short, Congress has an opportunity to reaffirm the Nation's antitrust policies. And it has the chance to support lower prices, more competition and a healthier marketplace.

Organized labor also supports this bill. The AFL-CIO writes:

The AFL-CIO has had an abiding interest in consumer oriented legislation in behalf of its 13 million union members and their families who comprise a significant portion of the buying public. Our support for S. 430 is consistent with our longstanding policy opposing resale price maintenance laws. In our judgment, allowing private manufacturers to fix wholesale and retail prices on branded merchandise, inevitably mean higher prices for workers, their families and consumers in general.

The Small Business Legislative Council also supports this legislation. They write:

In recent years we have witnessed a steady erosion of the antitrust laws that permit small business to compete on a level playing field. In particular, vertical price fixing is a serious problem, however, enforcement of laws to prevent it has become too lax.

The State attorneys general who help enforce the antitrust laws want this bill.

The National Association of Attorneys General writes:

The goal of the antitrust laws is to maintain a freely competitive environment in which all business ventures are given a reasonable and equal opportunity to succeed, guaranteeing consumers the best possible product at the lowest possible price. The passage of S. 430 will substantially further that goal.

The State attorneys general passed a unanimous resolution supporting the principles contained in S. 430, Republicans and Democrats alike make up that body.

Attorney general from Kansas, Robert Stephan, a Republican, says, and I specifically direct this to the attention of the Senators from Kansas, one of whom is, obviously, the minority leader.

Agreements to cut off goods to discount retailers, because of their price cutting, limit price competition, limit consumer choice and unlawfully enrich nondiscounting retailers at the expense of consumers. Such agreements should be banned.

The West Virginia attorney general writes:

If enacted, this bill will ultimately serve to protect the consumers' interest in the free marketplace. It will, in short, allow consumers to participate and enjoy the benefits and efficiencies that accompany good and fair competition in the economy.

The North Carolina attorney general writes:

S. 430 is important legislation, as it recognizes the important role of price competition to maintain a vital marketplace and will be an important tool in effective antitrust enforcement across the country.

All these major groups—senior citizen, consumers, labor, State attorneys general, small business—support S. 430. And, yes, I would say to my colleagues in the Senate, the people of this country support the right to buy at the lowest possible price. I urge my colleagues to join me and 28 bipartisan cosponsors and all their constitutents supporting S. 430. The country needs and demands legislation of this kind.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to S. 430, the retail Competition Enforcement Act of 1987. Rarely have I seen legislation which has been praised so highly as proconsumer, but which in fact will be harmful to consumers and, in the process, severely damage our Federal antitrust laws. This legislation is opposed by a wide array of antitrust experts, and by the American Bar Association, the New York City Bar Association Antitrust Committee, as well as the Justice Department and the Federal Trade Commission.

Fearing the practical effects of S. 430, this legislation is also opposed by literally dozens of business trade associations and companies, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Textile Manufacturers Institute, and the American Paper Institute. I, too, am convinced that S. 430 is bad legislation and should be soundly defeated.

Mr. President, I would like to spend a few minutes giving some background on S. 430 and describing the apparent reasons for its creation.

The major event spawning the creation of S. 430 was the Supreme Court's 1984 decision in Monsanto versus Spray-Rite Service Corp. In that decision, which was decided by a vote of 8 to 0, the Supreme Court held that a conspiracy to set vertical prices, in violation of section 1 of the Sherman Act, is not established by proof that a manufacturer terminated a distributor following, or even in response to, price complaints by other dealers. The Court held that,

[s]omething more than evidence of complaints is needed. There must be evidence which tends to exclude the possibility that the manufacturer and non-terminated distributors were acting independently.

The Court stressed that,

It is of considerable importance that independent action by the manufacturer, and concerted action on non-price restrictions, be distinguished from price-fixing agreements, since under present law the latter are subject to per se treatment and treble damages.

Mr. President, the proponents of S. 430 claim that that language is ambiguous and has engendered considerable confusion in the lower courts concerning the application of evidentiary standards in vertical price-fixing cases. I do not agree. In my view, Monsanto clearly articulates the appropriate evidentiary standard applicable to dealer termination cases. If there is confusion among lower court decisions, or if the lower courts are applying incorrect standards, the more appropriate way to correct the situation is through the judicial process, and not through legislation like S. 430, which is itself ambiguous and confusing.

Some have argued that the evidentiary standard established by Monsanto is so difficult for a plaintiff to meet that it is virtually impossible for a dealer termination case to reach the jury. Such an argument simply has no validity. In Monsanto itself, the Court found more than enough evidence to support the existence of price-fixing agreements and termination by the plaintiffs, Spray-Rite, pursuant to the agreements.

Spray-Rite was an authorized distributor of Monsanto herbicides from 1957 to 1968. In 1968, after Monsanto declined to renew Spray-Rite's distributorship, Spray-Rite brought an action against Monsanto under section 1 of the Sherman Act claiming that it was terminated pursuant to a conspiracy between Monsanto and some of its distributors to fix the resale prices of Monsanto herbicides. The jury found for Spray-Rite and awarded $3.5 million in damages before trebling. On appeal, the court of appeals affirmed and stated that "proof of termination following competitor complaints is sufficient to support an inference of concerted action."

The Supreme Court reversed the holding of the court of appeals but found that Spray-Rite presented enough evidence to prove that it had been the victim of an illegal price-fixing agreement. The Court found that there was direct evidence of resale price maintenance agreements from testimony by a Monsanto district manager that on at lease two occasions after Spray-Rite was terminated, Monsanto advised price-cutting distributors that they would not receive adequate supplies if they did not maintain the suggested resale prices. After one of the distributors still did not comply, its parent company was informed of the situation and the parent instructed its subsidiary to conform to the resale price. There was also a distributor newsletter, which the Court described as a "more ambiguous example," which stated that "every effort will be made to maintain a minimum market price level."

The Court also found that there was ample evidence to support an inference that Spray-Rite had been terminated pursuant to the price-fixing agreements. In a meeting between Spray-Rite and Monsanto following the termination, one of the first things the Monsanto official referred to was the many complaints it had received concerning Spray-Rite's prices.

In addition, there was evidence that Spray-Rite had never been informed of the alleged criteria which led to its termination, and that on several occasions from 1965–66, Spray-Rite had been approached by Monsanto officials, informed of complaints from other distributors, and asked to maintain its prices.

Finally, Spray-Rite testified that Monsanto made explicit threats to terminate if Spray-Rite did not raise its prices. In the final analysis, all of this evidence was certainly sufficient to get Spray-Rite to the jury and, of course, to uphold the jury's verdict that a price-fixing conspiracy had occurred.

Mr. President, in stark contrast to the fact that S. 430 is not needed to

clear up any "confusing" or "ambiguous" evidentiary standard in vertical price-fixing cases, is the reality that the legislation will wreak havoc with long established antitrust principles and will seriously undermine, if not effectively repeal, the long-standing Colgate doctrine and the law of conspiracy.

In United States versus Colgate & Co., the Supreme Court made clear that,

> In the absence of any purpose to create or maintain a monopoly, the [Sherman] act does not restrict the long recognized right of trader or manufacturer * * * freely to exercise his own independent discretion as to parties with whom he will deal.

In Monsanto, the Court underscored this point. In its effort to balance the right of a manufacturer to independently deal with whomever it wishes, and the right of a distributor to be free from illegal conspiracies, the Court stressed that,

> There must be evidence which tends to exclude the possibility that the manufacturer and non-terminated distributors were acting independently.

Because S. 430 sanctions the use of ambiguous evidence to prove the existence of a conspiracy, the line between independent and concerted activity will be unavoidably blurred, and independent, lawful activity will inevitably be condemned.

Furthermore, S. 430 undermines a long list of antitrust and other cases dealing with the law of conspiracy. In American Tobacco Co. versus United States, the Supreme Court defined a conspiracy as "a unity of purpose or a common design and understanding, or a meeting of minds in an unlawful arrangement." The conspiracy can be proven either through an explicit agreement or an implicit understanding, but in any event it is necessary to prove that there was "a meeting of minds in an unlawful arrangement." S. 430 allows a jury to infer a conspiracy based on evidence which falls far short of the American Tobacco standard and seriously jeopardizes the traditional law of conspiracy.

I want to repeat that sentence. S. 430 allows a jury to infer, I repeat, to infer a conspiracy based on evidence which falls far short of the American Tobacco Co. standard and seriously jeopardizes the judicial law of conspiracy.

Even the casual connection between the price complaint and the termination which is required by S. 430, does not prove, without more, that there was any agreement between the manufacturer and the complaining distributor to adhere to resale prices.

In addition to reversing Monsanto, S. 430 codifies the per se rule against resale price maintenance. Although resale price maintenance is per se illegal under current law, codifying the per se rule is neither useful nor effective. In recent years, there has been increasing criticism of the per se rule against resale price maintenance as established in Dr. Miles Medical Co. versus John D. Park & Sons. It has been argued that resale price maintenance, in some circumstances, may promote interbrand competition. it may enable a manufacturer to create attractive and inviting stores and showrooms. It may enable dealers to train sales personnel to provide technical advice and assistance to customers regarding complex or new products. Resale price maintenance may also deter some dealers from taking a "free ride" on other dealers' sales efforts. Economists have identified other procompetitive reasons why a manufacturer might want to impose resale price maintenance. In view of this debate, it would be far wiser not to codify the per se illegality standards and to allow the courts full flexibility to hear and analyze all the relevant economic and legal issues.

The best example of the need for judicial flexibility is the history of nonprice vertical restraints. In 1963, in White Motor Co. versus United States, the Supreme Court decided that nonprice vertical restraints should be evaluated under the rule of reason. Only 4 years later, in United States versus Arnold, Schwinn & Co., the Court felt prepared to issue a per se rule prohibiting agreements between manufacturers and dealers limiting a dealer's right to sell outside certain territories or to unfranchised customers. There followed 10 years of confusion about the scope of the rule and debate over its wisdom. In 1977, in the GTE-Sylvania case, the Supreme Court reconsidered the issue, overruling its prior per se decision and applying a rule of reason analysis to nonprice vertical restraints. The Court concluded that a per se rule that did not rest on the competitive effects of the proscribed conduct would produce bad results in some cases. It said that any per se rule should be "based on demonstrable economic effect rather than * * * upon formalistic line drawing." This history clearly establishes that the courts must be able to interpret and modify per se antitrust rules if these rules are to continue to have rational and beneficial effects.

Mr. President, I have heard many times that this legislation is necessary to save the discount retail industry. Proponents argue that unless S. 430 is enacted, discount stores will be driven out of business and the consumer will be the ultimate loser. The facts indicate otherwise, however. The discount trade industry is flourishing, even after the Monsanto decision in 1984. In February 1988, according to Discount Store News, a discount store trade publication, there were some 67 publicly traded discount companies, including K-Mart, Wal-Mart, Federated Department Stores, and Burlington Coat. Burlington Coat, one of the strongest proponents of this legislation, and one of the most outspoken on the eventual demise of discount operations in light of Monsanto, has shown a steady increase in sales. According to a Value Line report of June 3, 1988, sales by Burlington Coat increased from $51.3 million in 1980, to $480.7 million in 1986. Sales increased from $302.7 million in 1984, to a projected sales volume of $575 million for 1988. In 1983, Burlington Coat had approximately 35 stores and today it has over 100. By any standard, this is spectacular and enviable growth, much of which occurred after the Monsanto case was decided.

Discount Merchandiser, another trade publication, reported in its most recently available annual census, that the discount trade industry is continuing its growth trend. It reported that net store openings increased by 2.3 percent in 1986 over 1985, and that sales increased by 6.4 percent for the same time period. According to Discount Merchandiser,

> [i]n terms of dollar volume, discount stores are the largest retailers of housewares and gifts, infants' wear, domestics, toys, small electrics, stationery and greeting cards. They are the second leading retailers of cameras and photo supplies, sporting goods and luggage, lawn and garden supplies, automotive accessories, and consumer electronics.

With reference to specific stores, Discount Merchandiser noted that K-Mart's 5-year plan, announced in October 1986, anticipates 150 new K-Marts in this country; Wal-Mart achieved record sales for fiscal year ending January 31, 1987, of $11.8 billion; and Swallen's, Cincinnati's original discount store, finished fiscal year 1986-87 with a record $140 million in net sales.

Mr. President, the proponents of S. 430 would have you believe that support or opposition to S. 430 is a partisan matter. Nothing could be further from the truth. Perhaps the best indication of the bipartisan nature of opposition to S. 430 is a letter I recently received from the Honorable Sanford Litvack. Mr. Litvack was head of the Antitrust Division during the Carter administration and is widely recognized as an antitrust expert and respected as a rigorous prosecutor of antitrust violators during his tenure at the Justice Department. In fact, Mr. Litvack brought the only criminal vertical price-fixing case ever filed.

Mr. Litvack strongly opposes S. 430. While he has no objection to a codification of the per se rule for vertical price fixing, he strongly believes that the evidentiary standards established by subsection (b) of the bill are both "unwarranted and unwise."

Mr. President, while I want to make Mr. Litvack's letter part of the

RECORD, I would like to quote a portion of it now for my colleagues:

Through the proposed legislation, Congress would void the effect of Monsanto, and, as a practical matter, vitiate the summary judgement mechanism, by subjecting manufacturers to jury exposure even if the only evidence in the case is that a manufacturer terminated or refused to deal with a retailer "because of [a] suggestion request [or] demand . . ." by another retailer.

I believe S. 430 is an unwise intrustion by Congress into the realm of evidentiary standards in antitrust cases, an area which Congress has traditionally left to the courts. While Congress clearly has the power to establish evidentiary standards (and has often done so in non-antitrust cases), the approach taken in S. 430 is particularly troublesome. Wholly apart from the dire predictions that have been made to the effect that this legislation will produce a spate of treble damage lawsuits (which prediction may well prove to be true), the most serious problem with S. 430 is that it would create an impossible situation for businessmen.

As the Supreme Court has pointed out in a number of cases, including GTE-Sylvania and the recent Sharp Electronics decision (and as practical experience has taught), manufacturers and suppliers often receive "complaints" or "requests" from dealers either asking for termination of a competing dealer, or simply complaining about such dealers. Under S. 430 a manufacturer receiving such complaints would be proceeding at substantial risk if it were to go ahead with termination of the dealer in issue, whatever the manufacturer's true reasons for termination might be. For if a jury were to conclude, as it might with hindsight, that a dealer complaint was the cause from the termination—whatever the manufacturer may say—a large treble damage verdict might follow.

I am, of course, mindful of the fact that the legislation in issue provides that the "complaint" or "request" must have been a "major contributing cause" to the termination. However, that is the kind of fine-line drawing that is very difficult, if not impossible, for real world businessmen to make at the time of the events. Indeed, the irony of S. 430 is best illustrated by the fact that perhaps the safest way for a dealer to assure that he cannot be terminated is deliberately to act in a manner which would result in some complaints, thereby acquiring what may be the best insurance policy one can have.

Unfortunately, I do not find much comfort in the Congressional effort to maintain the possibility of summary judgment for the defendant in a vertical price-fixing case. While the statute would acknowledge the possibility of summary judgment, experience leads me to conclude that the inevitable effect of this legislation will be, as most of its sponsors desire, to make it far more likely that these cases will in fact be submitted to a jury. Although I do not yield to anyone in my regard for the jury system—in antitrust cases and otherwise—the plain fact is that there are sometimes findings of conspiracy, where none in fact existed, because of the myriad of emotional factors that appear in these kinds of cases. Certainly judges can set aside such verdicts when they are unsupported by the evidence, but the reluctance to do so is palpable. Thus, leaving the summary judgment route open, as it is after Monsanto and Sharp, is important from the standpoint of the antitrust defendant.

Finally, I should note that I am aware of, and sympathetic to, the plight of small retailers who may have legitimate antitrust claims arising from illegal terminations. As one who, while in the government, was especially concerned with resale price-fixing, I am anxious to be certain that the offense be recognized for what it is—a per se violation—and that the courts be kept open to deal with such violators. That concern, however, must be balanced against the legitimate rights, interests and concerns of manufacturers and other suppliers. I believe S. 430 tilts the balance too far in the wrong direction on this source.

Mr. President, I do not know of a more forceful condemnation of S. 430 than Mr. Litvack's letter. While he is second to none in his commitment to vigorous antitrust enforcement, he also recognizes the severe harm S. 430 visits upon our antitrust laws.

Mr. President, I will conclude these opening remarks very shortly so that my colleagues can also express their strong opposition to this legislation. As the debate progresses, however, I plan to address many more issues raised by S. 430. During our discussions, however, I urge my colleagues to keep in mind that it was not by accident that the antitrust laws were framed broadly rather than containing a long and detailed laundry list of proscribed activities. The drafters of the Sherman Act intended to draft a general statute, to be amplified as necessary through judicial reasoning and by experience over time, including changing circumstances. Senator Sherman himself remarked that:

It is difficult to define in legal language the precise line between lawful and unlawful combinations. This must be left for the courts to determine in each particular case. All that we, as lawmakers, can do, is to declare general principles, and we can be assured that the courts will apply them so as to carry out the meaning of the law, as the courts of England and the United States have done for centuries. 21 Cong. Rec. 2460 (1889).

Statutory rules phrased in terms of specific practices rather than in terms of competitive purpose or effect, lack the flexibility needed for optimum antitrust enforcement. Sound antitrust rules are simply not amenable to fixed, detailed, articulation. Not every court decision is well conceived, and even some decisions that are correct when issued, appear later to be based on weak findings and logic. The common law process can correct these. Legislation along the lines of S. 430 raises the specter of far more serious problems, which would be far more difficult to correct.

I urge my colleagues to oppose this bill.

Mr. BOND. Thank you, Mr. President. I want to express my sincere appreciation to my distinguished colleague from South Carolina who once again is playing a leadership role in this very important issue. I thank him for sharing this time with me.

Mr. President, I welcome this opportunity to set forth at some length my reasons for sharing the grave concern that our distinguished colleague from South Carolina has in opposing this bill, the Retail Competition Enforcement Act. Here are several reasons that I believe this is a bad piece of legislation, and I will go into them in detail later in my statement. However, I would first like to discuss the misinformation campaign that has accompanied S. 430.

Mr. President, the public affairs campaign that has surrounded S. 430 is a classic example of special interest legislation being recast as proconsumer to gain support. This bill has been portrayed as critical to protecting the rights of shoppers to buy at discount stores—their right to get a bargain. But that is not what it is at all. What this bill is is an attempt to rewrite the rules of evidence as they relate to certain antitrust lawsuits.

If the problem we have in our country is that there is not enough litigation, then this bill is a very clear remedy for that problem. It would in fact stir up a great deal of litigation. It would result in an explosion of costs of litigation. These costs would have to be passed on to consumers, and all consumers would pay the price in whatever they purchased in merchandise. This would cost consumers money, not save them money.

I have a copy of a booklet that is being handed out by groups supporting S. 430. I would like to share with my colleagues some of the interesting statements that it contains.

On the cover it states: "Consumer's Right: To choose where they shop! To purchase quality goods at a lower price!" That sounds reasonable, doesn't it? Well of course it is reasonable. It is essential that consumers ought to have the right to choose where they shop and they ought to try to purchase goods at the best prices. We all like to find bargains. Certainly my family is no different from yours or from any other family in this country.

Then, you might ask, "How can you be opposed to this bill if you agree with that statement?" The simple answer is that this bill will not enhance a consumer's right to choose where he or she shops and to find the best prices for a particular item. We all know that consumers have the right to choose where we shop—if we enact this bill into law, consumers will not be guaranteed that choice. In fact the bill is more likely to result in consumers having fewer rather than greater choices of discount stores at which to shop.

Another statement in the booklet which is worth noting is contained in a column by Jack Anderson. Mr. Anderson, who clearly must not understand

the ramifications of this bill, states: "If the bill bites the dust, it could drive discount stores out of business."

Now, this is precisely the type of misinformation to which consumers have been subjected throughout the consideration of this bill and which causes me great concern. To say that if the Congress does not pass S. 430, then we will no longer be able to shop at K-Mart or Burlington Coat Factory is just not true. A quick review of a few statistics my colleague from South Carolina has shared makes this clear.

S. 430 essentially overturns the unanimous decision of the U.S. Supreme Court in the case of Monsanto Co. versus Spray-Rite Service Corporation. Now, that case was decided in 1984. It would seem logically to follow that if the Monsanto case so critically wounded the discount retail industry that it could not survive unless the decision were overturned, then we would see a significant drop in the profits of discounters or in their expansions. But that is not the case at all. In fact, the discount industry has proposed in the four years since the Monsanto decision was handed down.

According to the Value Line report published 1 year ago, Burlington Coat Factory's sales increased from $302.7 million in 1984 to a projected $485 million in 1987.

Similarly, as quoted in the minority, report, last year net store openings increased 2.3 percent in 1986 over the previous year and sales increased 6.4 percent in the same time period. The report noted that in October 1986, K-Mart announced a 5-year plan which anticipated 150 new stores. The statistics for other large discounters are similar and we have just now heard from our distinguished colleague from South Carolina the figures brought up to date.

It seems pretty clear to me that these are not the numbers we see behind failing businesses—businesses that are fighting for their lives. Rather, these are businesses that are healthy, that are expanding, and that are increasing their sales. And, Mr. President, I am glad to see that because I often shop at these stores, and I want to continue to do so.

So, Mr. President, I simply want at the outset of this debate to make it clear to my colleagues what this bill will not do. This bill, if passed, will not ensure the survival of the Burlington Coat Factory or K-Mart or Best Products. Those companies are doing just fine, and you and I will be able to shop at those stores regardless of whether we pass this bill today.

Now, I would like to turn to what this bill would do if it is enacted into law. As the distinguished ranking member already has pointed out, S. 430 contains two sections. One section would codify the per se rule with respect to vertical price fixing. The other section would overturn the Supreme Court's ruling in the Monsanto case.

At first glance, codifying the existing rule that retail price fixing is per se unlawful sounds reasonable enough. The rule has been in existence for most of this century and the courts have given no indication that they intend to abandon it any time soon. If there is an agreement to fix prices, that is illegal. However, the codification of the rule could remove from the court some of the flexibility of that rule. The antitrust laws when they were initially passed were intentionally drawn in a broad manner to allow the courts to apply them to new situations and developments. I believe it would be a mistake to withdraw that flexibility.

The other section of S. 430 would overturn the Supreme Court's 1984 decision in Monsanto Co. versus Spray-Rite Service Corporation. This is the part of the bill that gives me the greatest concern, and I would like to focus on it for a few minutes.

In the Monsanto case, Monsanto refused to renew its distribution agreement with Spray-Rite, a wholesale distributor of agricultural chemicals and herbicides. Spray-Rite brought suit in Federal district court charging that Monsanto had conspired with some of its other distributors to fix the price of Monsanto's products, and that Monsanto had terminated its contract with Spray-Rite in furtherance of the conspiracy. The Supreme Court found that there was sufficient evidence that Monsanto had conspired to fix prices and, therefore, ruled in favor of Spray-Rite. The Court went on to point out the important distinction between concerted action to set prices, which is of course per se unlawful, and concerted action on nonprice restrictions which is judged by the rule of reason. So they have drawn a very careful distinction between an agreement on prices, and agreements on other areas of distribution which can be extremely important.

The Court said that permitting a price-fixing agreement to be inferred from the existence of complaints from other distributors, or even from the fact that termination came about in response to complaints, could deter or penalize perfectly legitimate conduct. Therefore, the Court said, the correct standard to use in these cases is that there must be evidence that tends to exclude the possibility that the manufacture and the nonterminated distributors were acting independently. There must be more than simply evidence of complaints from a competing dealer and a subsequent termination of the dealer about whom the complaint was made.

The proponents of S. 430 argue that the standard set forth by the Court is too harsh and that it must, therefore, be overturned. In its place they would erect the standard that if a plaintiff can produce sufficient evidence from which a trier of fact could reasonably conclude that a price-related communication was a major contributing cause of a distributor's termination, then the plaintiff is entitled to have the trier of fact consider whether the supplier and the complaining dealer engaged in a vertical price-fixing conspiracy.

As one who has spent some time in the practice of antitrust law, I can assure you that that will open the floodgates of litigation, and it will be litigation not about the central question, the question which ought to be central in antitrust cases, as to whether there is an unlawful agreement or conspirarcy to fix prices—to say, "Was there a termination? Was there a complaint?" That broad a standard ties the hands of the manufacturer. It makes highly suspect any compliant from a competing dealer.

The problem with this standard is that there is no clear standard definition of the term "major contributing cause." The distinguished Senator from South Carolina has given us some excerpts from the letter written to him by Mr. Litvack, a lawyer who headed the Antitrust Division under President Carter. I should like to offer another quotation from that letter from Mr. Litvack to Senator THURMOND. Mr. Litvack wrote:

> I am, of course, mindful of the fact that the legislation in issue provides that the "complaint" or "request" must have been a "major contributing cause" to the termination. However, that is the kind of fine-line drawing that is very diffuclt, if not impossible, for real world businessmen to make at the time of the events.

If the S. 430 standard were implemented, the impact on many companies—especially manufacturers who sell their products through distributors—will be significant. It is a fact of business that competing dealers will complain about each other's business practices—a competitor is not providing adequate service, or is not advertising properly, for example.

Let me say, as a footnote, that the likely result of such a law being passed, would be to encourage the vertical integration—to get rid of the system of dealers, to have more and more manufacturers take over the function and sell directly.

I cannot imagine how many such complaints a company might get from competing dealers, ones who have a major distribution network of dealers throughout the country—how many such complaints a company like Ford has in its files, or IBM or Xerox. This is particularly important for smaller manufacturers as well. These companies do a major part—if not all—of their business through dealers, and these dealers are locked in fierce com-

petition with each other, as they should be. That is how the system works, and that makes the system work well. In the regular course of business, these manufacturers are going to want to discontinue their relationship with some dealers—perhaps because the dealer is not displaying the merchandise properly or has not paid its delinquent account. There is no question that a manufacturer should have and does have the right to take such unilateral actions. That is how a manufacturer assures the public that they get what they bargain for when they buy their product.

For example, a manufacturer of shoes may want to have his dealers ensure that people get shoes that fit them. He may make it a policy to deal with those shoe stores that have a full line of service and have a trained representative fitting the shoe, making certain it is the right size, making sure that people who wear those shoes are satisfied. He can do that.

Under current law, a dealer may decide to switch to a different system, under which he fires all his sales representatives and all the people who helped fit shoes for customers, and just stacks the shoes in a corner. He can say, "Well, I got rid of the salesmen and the people who help fit the shoes, and I can sell them cheaper." He can knock down the price a bit because he does not have to hire those people.

After a while, people may buy shoes and find they pull the wrong shoes off the rack. Not only does the dealer have a problem of dissatisfaction, but so does the manufacturer; and he has to tell the customers: "I'm sorry. You may have bought it cheap, but you didn't buy the right shoe."

However, if S. 430 were the law and if there happened to be a complaint on file from a competing dealer, the problem dealer could threaten the manufacturer with a suit under section 1 of the Sherman Antitrust Act, treble damages and perhaps hundreds of thousands or millions of dollars in legal fees. The result would more than likely be that the manufacturer refrains from terminating the problem dealer—choosing instead to live with the problem rather than chance a price fixing challenge. The irony, as Mr. Litvack points out in his letter to Senator THURMOND, is that the best way for a dealer to assure that he won't be terminated is to deliberately act in a manner which would result in complaints from competitors, thereby acquiring an insurance policy against action from the manufacturer.

Mr. President, such a result just does not make sense. There is no reason that defendants in retail price maintenance cases should have to be subjected to such an unfair standard. The bill would effectively eliminate the use of summary judgment as a defense against price fixing conspiracy charges.

I have discussed this bill with many businessmen from my State and others, and they have shared with me the severe impact it would have on their businesses. Just one example is Interco, a major employer in St. Louis and the parent of several companies including Broyhill, Biltwell, Ethan Allen and Florsheim, all of which sell their goods through dealers. Representatives of that company named several possible problems they would face if S. 430 became law.

Florsheim shoes are sold through dealers who are expected to maintain standards of quality in their stores and who are expected to display the shoes in a manner befitting the quality of the shoes. Under current law, when these standards are not met, Interco can, if necessary, take steps to terminate its relationship with the dealer. If S. 430 were law, Interco officials have told me they would be hesitant to take such steps because of the threat of an antitrust action. Thus, the company could, for example, be forced to retain a dealer who merely left shoes stacked in piles, required customers to serve themselves or did not provide proper after the sale service.

Another example relates to the business of Ethan Allen furniture dealers. Interco believes that enactment of S. 430 could result in a reduction in the number of full service dealers who provide employees such as interior decorators for their customers. This would result as dealers tried to cut costs in an effort to compete with dealers not providing such services. Interco officials pointed out that if this situation went far enough, it could result in Interco deciding to integrate vertically and eliminating its dealers altogether.

Mr. President, it would be a mistake for us to pass the bill before us today. Beyond the problems it would cause—many of which my colleagues and I have discussed today—there is simply no need to overturn the Monsanto decision. I think it is important to note that the decision in that case was unanimous. There was no controversy among the Justices regarding that standard. I believe it is also important to point out that the Court recently upheld the Monsanto decision in the Sharp case. In that case, which was handed down just last month, the Court held that to render illegal per se a vertical agreement between a manufacturer and a dealer to terminate a second dealer, the first dealer must expressly or impliedly agree to set its prices at some level.

Finally, I think it is worth noting, in response to those who continue to argue that this is proconsumer legislation, that in both Monsanto and Sharp, the majority included Justices Brennan and Marshall—certainly the two Justices on the Court who can most easily be labeled proconsumer.

I would like to close by once again urging my colleagues to vote in opposition to this bill. Unfortunately, S. 430 has been sold in the guise of being a bill which will benefit consumers. I think it is clear that that is not the case. None of us dispute a consumer's right to shop at discount stores, but that is not what we are debating here. What we are debating is a bill to change the evidence standards necessary to bring a resale price maintenance case, a bill which will unnecessarily open the floodgates to many costly suits—an action we all know from painful experience will result in higher costs to us all.

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Chair will state that the Senator from Ohio——

Mr. METZENBAUM. And that the Senator from Ohio may be recognized for the purpose of introducing an amendment, notwithstanding the previous unanimous consent request.

The PRESIDING OFFICER. The Senator, the Chair will inform him, is entitled to vitiate the quorum call, and then the Senator from South Carolina has recognition under the previous order. So the quorum call is vitiated. The Senator from South Carolina.

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

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

The Senator from Ohio.

AMENDMENT NO. 2509

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for Mr. INOUYE (for himself and Mr. METZENBAUM), proposes an amendment numbered 2509.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read.

The assistant legislative clerk read as follows:

At the end of the pending matter add the following:

(a) Section 3(2) of the Newspaper Preservation Act (Public Law 91-353; 15 U.S.C. 1802(2)) is amended by inserting after "distribution" the first time it appears the following: "of all or part of such newspaper publication".

(b) Section 3(4) of such Act (15 U.S.C. 1802(4)) is amended by inserting after "produced" the following: "in whole or in part".

(c) Section 4(c) of such Act (15 U.S.C. 1803(b)) is amended by striking out the first sentence and inserting in lieu thereof the following: "It shall not be unlawful for any person to enter into, perform, or enforce a joint operating arrangement not already in effect, if the prior written consent of the Attorney General has been obtained.".

(d) Section 4 of such Act (15 U.S.C. 1803) is amended by adding at the end thereof the following new subsection:

"(d) In any action under any antitrust law challenging joint conduct between the parties to a joint newspaper operating arrangement that has received the limited antitrust exemption provided by subsection (a) or (b) of this section, joint conduct between the parties that is not exempt as part of such arrangement but that is reasonably ancillary to the business of publishing the newspaper publications involved in the arrangement shall not be deemed illegal per se. Such joint conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition in properly defined relevant markets.".

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I think many of the newspapers of this country are very anxious that this body proceed forward to add it to this bill.

The amendment is offered not on my own behalf, but on behalf of Senator INOUYE, and I join him as a cosponsor. It is basically his amendment.

Really what this amendment does is it amends the Newspaper Preservation Act. It would amend the act in four ways. Newspapers oftentimes have shoppers. They are inserts containing primarily advertising. This would permit those shoppers to be distributed with a newspaper.

Second, it would permit newspapers printed on higher-quality paper than newsprint to be distributed under a joint operating arrangement authorized under the act.

Third, it makes clear the act does not create new legal prohibitions.

Fourth, it would expand the scope of conduct not deemed automatically anticompetitive to conduct "reasonably ancillary to the business of publishing" a newspaper, even if the conduct is not specifically part of the joint operating arrangement approved by the Attorney General.

A similar amendment was reported by the Judiciary Committee in the 99th Congress. I am willing to accept the amendment, but I am not asking that it be accepted at this point until such time as members of the minority have had an opportunity to explore the amendment.

They voted for a similar amendment in the 99th Congress in the Judiciary Committee, and I guess they would find it acceptable at this point.

(Ms. MIKULSKI assumed the chair.)

Mr. INOUYE. Madam President, I strongly support the Newspaper Preservation Act amendment to S. 430.

The Newspaper Preservation Act has been effective, as the Congress intended, in allowing two independent and competing newspapers to remain in business, disseminating information and differing views on current issues, in cities where only one newspaper could commercially survive. This amendment is not intended to change the basic structure of the act. Rather, it sets forth technical changes in line with Congress' intent when it enacted the Newspaper Preservation Act in 1970. In light of ambiguities and questions raised in court decisions, Congress must act to conform the legislation to the technological changes in newspaper production and marketing which have occurred since 1970.

If I may, I would like to briefly relate the history underlying the Newspaper Preservation Act. During the depression years, full competition between newspapers in a great many cities came to a halt, as more and more newspapers shut down for economic reasons. The two in Albuquerque, NM, were faced with such a situation in 1933, when they agreed to a novel arrangement. Instead of one paper shutting down, or being brought out by the other, the two newspapers entered into a commerical merger, but each agreed to produce a separate news and editorial product. Thus, there were still morning and afternoon newspapers, with independent voices, even though the papers operated pursuant to a joint operating agreement, generally referred to as a JOA. This was successful in saving the two newspapers in Albuquerque.

While the number of newspapers continue to decrease, publishers in a number of other cities entered JOA's to preserve their separate and distinct voices. This happened in my home city of Honolulu where, but for a JOA, the Honolulu Advertiser would surely have gone out of business. JOA's were entered into in, among others, Salt Lake City, UT, Birmingham, AL, Charleston, WV, Pittsburgh, PA, and Tucson, AZ. By 1964, joint operating agreements had been formed in 22 cities.

The Department of Justice was well aware of these JOA's, and had initially given tacit approval to them. However, it brought an action against the Tucson JOA which resulted in a decision by the Supreme Court in 1969. The Supreme Court held, in Citizen Publishing Co. versus United States that the JOA in Tucson, and by implication all other JOA's, violated the antitrust provisions of the Sherman Act.

Congress, in balancing the importance of first amendment principles against the reach of antitrust laws, determined that JOA's should be protected in order to preserve separate newspaper voices in each of the cities involved. After extensive hearings in both the Senate and House Judiciary Committees, Congress enacted the Newspaper Preservation Act in 1970. In the Senate the vote was 64 to 13, and in the House it was 292 to 87.

The Newspaper Preservation Act grandfathered the existing JOA's, provided that at least one of the newspapers was failing at the time it entered into the JOA. It also provided for future JOA's, subject to the Attorney General's approval. In 1970, there were 21 JOA's. Of these, 18 still exist. In addition, new JOA's have been formed in three cities, with the approval of the Attorney General.

I find this to be demonstrative of the Newspaper Preservation Act's effectiveness, as well as the fulfillment of Congress' intent in preserving separate and distinct newspaper voices. We all know of the many, many newspapers which have closed down since 1970. The economic facts are such that, contrary to arguments which have been made in the past, there has not been a successful replacement of a closed newspaper in any metropolitan area. The economics of newspaper production have foreclosed replacing one newspaper with a new one. That is why we enacted the Newspaper Preservation Act. This is also why it is critical that we amend the Newspaper Preservation Act and bring it up to date with respect to the technological changes which have occurred since 1970, and thereby allow the act to maintain its vitality.

Very simply, the technological advancements occurring in newspaper publishing today were not anticipated in 1970. JOA newspapers should not be foreclosed from these technological capabilities when all other single-owner newspapers may, and do, employ them. In enacting the Newspaper Preservation Act, Congress recognized a JOA as a commercial merger, and did not relegate JOA newspaper publishers to the position of "second-

class citizens" among all newspaper publishers.

In the 99th Congress, Senator HATCH and I sponsored a very similar bill. The Judiciary Committee held hearings, and favorably reported the bill, recommending its passage. In its report, the Judiciary Committee wisely concluded that:

> The public interest in preserving joint operating newspapers, and expressly permitting them to compete as single newspapers, is a sound and necessary basis for the proposed amendments * * * the situation facing JOA newspapers today demonstrates a clear need for this legislation. (S. Rep. 539, 99th Cong., 2d Sess. 8 (1986)).

Madam President, the proposed amendments to the Newspaper Preservation Act do not expand the antitrust exemption already granted, nor do they provide any blanket immunity from the reach of the antitrust laws. The law now states, in plain language, that a newspaper in a JOA is prohibited from any action which would be unlawful if done by a single-owner newspaper. This amendment merely allows JOA newspapers to take advantage of the technological advancements which are currently employed by single-owner newspapers. JOA newspapers are at a competitive disadvantage and must be brought into parity with their single-owner counterparts.

Madam President, I urge my colleagues to support this important amendment.

Mr. METZENBAUM. Madam President, I add the name of ROBERT BYRD to the amendment that is pending at the desk.

The PRESIDING OFFICER. The clerk will take note.

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

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

Mr. METZENBAUM. Madam President, I ask unanimous consent that the pending amendment be set aside temporarily so that the Senator from Ohio may send another amendment to the desk.

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

AMENDMENT NO. 2510

(Purpose: To clarify the application of section 8 of the Sherman Act)

Mr. METZENBAUM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2510.

Mr. METZENBAUM. Madam 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 4, amend section 2 of the pending matter by adding before the period at the end thereof the following: ", except that this section shall not apply when the agreement to set, change, or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service".

Mr. METZENBAUM. Madam President, certain groups have expressed concern that the bill would codify the automatic illegality of maximum vertical price fixing. Maximum vertical price fixing occurs when there is an agreement not to charge a price higher than the agreed price. The Supreme Court precedent makes maximum vertical price fixing automatically illegal. We are offering an amendment today to exclude maximum vertical price fixing from the reach of the bill. The amendment would not change the current rule that maximum vertical price fixing is automatically illegal but the rule would not be codified.

Some question has been raised about the extent of section 8(b)'s codification of the per se rule against vertical price fixing. In general, the purpose of section 8(b) is to codify once and for all that vertical price fixing, other than maximum vertical price fixing, is per se illegal. The committee report, on page 12, states, "This subsection 8(b) codifies the long-standing rule that vertical price fixing is per se illegal."

The bill does not define what constitutes vertical price fixing except for a few points noted in the committee report on page 12. First, the report provides that "a vertical price-fixing conspiracy need not include an agreement on a specific price or on a price level." In explaining this issue, the report notes that the original version of S. 430 addressed "a contract, combination, or conspiracy to set, change, or maintain a price level." The committee amendment in the nature of a substitute, however, was changed to remove all reference to "price level." In the words of the committeee report, "The phrase 'price level,' and similar terms, have almost become terms of art referring to a restrictive definition of vertical price fixing." The report goes on to clarify this legal point, made even more significant in light of the Supreme Court's recent decision in the Business Electronics versus Sharp Electronics case: "The requirement of an agreement on a 'price level' or on a specific price has never been the law. Such a requirement would make little sense, for example, when the vertical price-fixing conspiracy puts a distributor out of business because of its pricing practice." S. 430, therefore, would overrule the recent Sharp decision to the extent that the decision is inconsistent with the legislation.

The second point concerning the definition of vertical price fixing is also described on page 12 of the committee report. The report explains that the original version of subsection 8(b) "might have been interpreted to mean a vertical price-fixing conspiracy must involve an agreement between a supplier and a reseller related to that reseller's pricing of a good or service." The committee substitute and the report clarify this point. The committee substitute deletes the word "such" from the original text to make clear that proof of vertical price fixing does not require proof of an agreement between a supplier and a reseller on that reseller's pricing. The report explains, "This is certainly one of the traditional formulations of a vertical price-fixing conspiracy. It is not, however, an inclusive definition of vertical price fixing. * * * The amended language makes it clear that all forms of vertical price fixing are illegal per se."

Besides these points, however, the purpose of the bill is simply to codify the rule that vertical price fixing, other than maximum price fixing, is per se illegal. In the words of the committee report: "Section 8(b) of the bill is designed to codify the per se prohibition against vertical price fixing. * * * Section 8(b) is not, however, designed either to codify or change the specific applications of the per se rule; courts can continue to develop the law in this area within the constraints imposed by S. 430."

Exploring this issue further, take a collective-bargaining agreement between an employer and a union under which the employees covered by the contract and members of their families are able to buy the employer's product at a discount. This arrangement is implemented by the employer agreeing with retailers that the retailers will not charge the covered employees more than the discounted price for the product.

I interpret these facts as an agreement to set a maximum resale price. I have already offered an amendment which provides that maximum vertical price fixing is not addressed by section 8(b) of the bill—the section which codifies the rule that vertical price fixing is per se illegal. The legality of any maximum vertical price fixing arrangement is not affected by section 8(b) of the bill, as amended.

Take another arrangement between an employer and a union involving "balance billing" or caps on participant copayments contained in health care plans. These arrangements in-

volve an agreement between insurance carriers and participating physicians or health care providers that they will not bill their patients for more than the established copayment requirements established in the policy. The First Circuit addressed the claim that such a ban on "balance billing" violates the antitrust laws in a case called *Kartell* v. *Blue Shield of Massachusetts, Inc.*, 749 F. 2d 922 (1984), *cert. den.*, 471 U.S. 1029 (19__). The Court determined that such a ban on "balance billing" does not violate the antitrust laws.

Again, this issue relates to section 8(b) of the bill. If the antitrust laws currently do not prohibit these types of arrangements, as the First Circuit case indicates, they would not prohibit the conduct after enactment of S. 430. As I stated earlier, other than the points described in the committee report, secion 8(b) of the bill simply codifies current law that vertical price fixing, other than maximum vertical price fixing, is automatically illegal.

Mr. SIMON. I have a question for my colleague from Ohio about this amendment. Certain newspaper publishers in Illinois are concerned about the effect of this bill on their industry. Establishing a maximum price for resale of their publications may increase circulation and, therefore, increase advertising revenue. How would this amendment address the concerns of the newspaper industry?

Mr. METZENBAUM. Newspaper publishers have also expressed their concern to me about codifying the per se rule against maximum vertical price fixing. This amendment is a direct response to their concerns and I understand that the American Newspaper Publishers Association endorses it.

The amendment would exempt maximum vertical price fixing from the reach of the codification section. As such, current Supreme Court case law would continue to apply, but would not be codified. The Court would be free, if the opportunity arose in the future, to revisit the issue of the legality of maximum vertical price fixing.

An additional question has been raised about the application of section 8(a) to maximum vertical price fixing. Section 8(a) would not apply to a case involving maximum vertical price fixing in any event.

Take the case of a newspaper publisher that wants to set a maximum price for its paper so that it can keep the circulation up and maintain or increase its advertising revenue.

If a retailer decides not to comply with the publisher's maximum price, it would do so by charging a price that is higher than the maximum price. To meet the requirements of section 8(a), there would have to be a retailer in competition with the high-price retailer uring the publisher to "take steps to curtail or eliminate [the] price competition" of the high-price retailer. But this would not involve price competition within the meaning of section 8(a) however, since the high-price retailer is not charging a price that is in competition with the maximum price.

For these reasons, my amendment concerning maximum vertical price fixing only applies to section 8(b).

Mr. GLENN. I would like to enter into a colloquy with my distinguished colleague, the Senator from Ohio, to seek clarification of the intent underlying the Sentor's amendment to section 8(b) of S. 430, "The Retail Competition Enforcement Act of 1987."

Mr. METZENBAUM. I would be pleased to enter into a colloquy with the distinguished Senator from Ohio.

S. 430 as introduced and reported out by the committee codified as a per se violation of the Sherman Act any form of vertical price agreement, including both maximum and minimum resale pricing. After the committee reported the bill, several groups and companies expressed concern against codifying the per se rule to include agreements that only have the effect of establishing a maximum resale price for a product.

The primary purpose of S. 430 is to allow retailers the right to offer discount prices. However, as originally drafted, the literal reading of S. 430 could be applied in public or private enforcement to agreements between a manufacturer and reseller which have the effect of establishing a maximum resale price. Therefore, certain forms of promotional discount pricing and other marketing or pricing agreements that may limit resale to a maximum price and which should be encouraged could become subject to this legislation.

A good example are manufacturer-sponsored programs to promote discounting which temporarily establish the customer's regular price as a maximum resale price for participating customers during the period of the customer's performance. The effect of these offers is to lower the regular price independently set by the customer in return for the allowance. We understand that offers of this type are prevalent in the grocery industry and are voluntarily engaged in by retailers often resulting in substantial temporary price reductions to consumers. The amendment I have offered would clearly exempt such offers and other marketing or pricing agreements that may limit resale to a maximum price from the application of this legislation. My amendment appears as the last sentence in section 8(b) of S. 430, as follows:

> Except that this section shall not apply, when the agreement to set, change, or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service.

The committee never intended to sweep promotional practices within the scope of the per se rule. Indeed, the committee's primary concern was to prevent practices which inhibit discount pricing by resellers. This intention is also expressed in the legislative record for the companion bill H.R. 585. Chairman RODINO stated on the floor of the House, "This section is also not intended to bring within the scope of the per se rule promotional practices that have long been considered not to constitute price fixing. (CONGRESSIONAL RECORD, Nov. 9, 1987, H 9797.) Ranking minority member HAMILTON FISH made a similar statement (CONGRESSIONAL RECORD, Nov. 9, 1987, H 9801). The amendment provides that agreements which have the effect of establishing a maximum resale price are outside the scope of this legislation. It leaves the courts free to consider on a case-by-case basis how the Sherman Act should apply to maximum vertical pricing arrangements.

Mr. GLENN. I agree with my colleague from Ohio and thank him for his remarks. Speaking as a cosponsor of this legislation, I agree that there was never an intent here, to outlaw the kind of promotional sales the Senator described, which are so widespread in retailing and have been found to be legal. But, I do have one question. I am concerned about those situations which do not arise in manufacturer sponsored promotional programs or other marketing or pricing strategies we have discussed in which a so-called maximum price fixing arrangement is used as a mask for a minimum price fixing arrangement. How would the amendment affect those arrangements?

Mr. METZENBAUM. Where so-called maximum price fixing is used as a mask for minimum price fixing, such arrangements would not be affected by the amendment. They would be per se unlawful under section (b).

Madam President, on the conclusion of the remarks of the Senator from South Carolina, I think we may be prepared to move forward and take this amendment.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, this amendment concerning maximum resale prices addresses one of the problems raised in the minority views to the committee report of Senators HATCH, SIMPSON and myself. It exempts maximum resale pricing from the codification of the per se rule. It does not overturn Albrecht versus The Herald Co., the Supreme Court decision which held maximum resale pricing to be illegal per se, but allows that issue to be reconsidered by the Su-

preme Court if such an opportunity is presented.

Madam President, it is difficult to conceive how consumers could suffer any harm from creation of a maximum resale pricing policy. On the contrary, maximum price policies would prevent dealers from imposing inordinate price markups in local resale markets, to the detriment of both consumers and the producer. Consumers, therefore, benefit from these lower prices under the theories advanced both by opponents and supporters of S. 430.

The experience of the newspaper industry is particularly relevant. Home delivery services, which usually operate as exclusive territorial distributors, can take advantage of their monopoly positions by charging high resale prices. People with limited mobility—the home-bound, the disabled, the elderly, and those in rural areas—are particularly subject to price gouging. Newspapers derive their revenues partly from the price subscribers pay, but more importantly from rates paid by their advertisers. Newspapers, therefore, may find it in their interest to keep prices paid by consumers lower in order to maintain circulation.

Madam President, in a letter which I received some time ago from Donald F. Turner, an antitrust professor at Georgetown University Law School, he objected strenuously to codification of the per se rule for resale price maintenance. His objection was twofold: first, codification would preclude reversal of the Albrecht decision; and second, it would preclude courts from creating any exception to the per se illegality of minimum resale price maintenance agreements. This amendment addresses his first concern and will allow reconsideration of the Albrecht decision. For that reason I support it and urge my colleagues to do the same. Nevertheless, I continue to have strong objections to the bill and to the codification of the per se rule, and would urge my colleagues to keep these concerns in mind as they vote on this amendment.

Mr. GRASSLEY. Mr. President, I am pleased to support this amendment to S. 430, to limit the codification of the per se rule to cases of minimum, rather than maximum, price agreements.

Section 8(a) of the bill codifies the per se rule against vertical price fixing. But as presently drafted, this section could mean higher prices for readers of newspapers and buyers of other consumer products.

To illustrate, newspapers frequently impose a maximum resale price on independent contractors who distribute the paper. The publisher's intent, of course, is in keeping the price low enough to attract readers and advertisers. Distributors, however, may not share this desire. Instead, they may prefer to mark up the price and pocket the profit.

In the 1968 case of Albrecht versus Herald Co., the Supreme Court struck down a publisher's imposition of a maximum resale price. The Court held that there was no distinction between minimum and maximum resale price maintenance. In the Court's view—all such price agreements are illegal—even those designed to enhance consumer welfare.

The Albrecht decision has been attacked by many legal scholars, and rightly so. Congress should not unwittingly codify the Albrecht rule in this legislation.

This amendment allows the publishers and others to relitigate the Albrecht case another day. It recognizes the legitimate interest that manufacturers and distributors have in maintaining low prices to their ultimate customers. It is a proconsumer provision and a welcomed addition to the bill.

Mr. LEAHY. Madam President, I want to commend Senator METZENBAUM for his untiring efforts to ensure the vigorous enforcement of our antitrust laws. His Retail Competition Enforcement Act, S. 430, is a product of these efforts. Senator METZENBAUM worked hard to draft a compromise bill which the Judiciary Committee passed with bipartisan support. I was pleased to help him forge that compromise.

S. 430 is aimed at deterring vertical price fixing. Also known as resale price maintenance, this practice has been per se illegal under the antitrust laws for over 75 years. By forcing artificially high prices, vertical price fixing hurts consumers and businesses.

Agreements to set minimum resale prices are, and should continue to be, per se illegal. Blocking these agreements is the only practical way to guarantee consumers the widest possible selection of goods and services at the lowest prices.

Agreements between suppliers and dealers setting price ceilings are another matter. In most cases, agreements setting a ceiling on the prices that dealers can charge customers help consumers.

The newspaper industry's experience illustrates this point.

Advertising revenues help keep the prices consumers pay for newspapers low. These revenues account for the bulk of a newspaper's earnings. An advertiser's willingness to advertise in a newspaper depends in large part upon the size of the newspaper's circulation or readership. By keeping the price of a newspaper low, a publisher generates a larger circulation which in turn attracts advertisers to that newspaper. Maintaining circulation is crucial to keeping a newspaper prosperous and its price to consumers low.

Our first amendment values, and our system of government, depend on an informed citizenry.

Publishers frequently enter into home delivery agreements, including territorial dealerships, to get their newspapers distributed. If a price-gouging newspaper dealer seeking short-term profits uses his monopoly to hike up the newspaper's price, consumers are hurt. Persons in rural areas, the elderly, and others who have limited mobility particularly are at the mercy of the prices charged by newspaper dealers. By setting a price ceiling on his newspapers, a publisher protects his readers' interests.

Our antitrust policy should not deter manufacturers and distributors from setting bona fide ceilings on the resale price of their products. Senator METZENBAUM's amendment would clarify that S. 430's codification of the per se rule against vertical price fixing applies to minimum price agreements. Courts should not interpret S. 430 as codifying application of the per se rule to price ceilings.

I believe in the vigorous enforcement of our antitrust laws. I helped forge the compromise of S. 430 which is now before the Senate because it will reinvigorate the enforcement of our laws prohibiting vertical price fixing. I urge my colleagues to support both S. 430 and the Metzenbaum amendment on price ceilings.

Mr. METZENBAUM. Madam President, I believe we are ready to act on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2510) was agreed to.

Mr. METZENBAUM. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE PLANT CLOSING BILL

Mr. DOLE. Madam President, it is my understanding that we will soon be going out for the day and we will be back next Wednesday to have another cloture vote on the plant closing bill. So I take the floor at this time, while

the majority leader is otherwise occupied, just to indicate to Members on this side and all Members that it is the intention, I guess, to dispose of this bill sometime next Wednesday, Thursday, or Friday.

It had been my hope that we might agree to come in on Monday, the 11th, and have final passage by a certain hour, but that was not acceptable. So we will be back on Wednesday and I think Members should be on notice that we will be back on Wednesday and there will be a cloture vote and the majority leader will determine when he sets the convening hour. If cloture is invoked, then we will probably be on that bill until final disposition.

The pending amendment is an amendment by the Senator from California, Senator WILSON. There are additional amendments that have been filed and, I believe, timely filed. We will have the Massachusetts plan amendment, which I think should probably be adopted by a voice vote, and maybe others that Members will be offering on this side and maybe the other side.

It is also regrettable, notwithstanding the efforts by some on both sides of the aisle to work out some accommodation on a couple of the provisions, that was not consummated. I commend the distinguished Senator from Indiana, Senator QUAYLE, for his efforts, and the Senator from Utah, Senator HATCH, for his efforts in that regard and in the general management of the bill on this side. I thank my colleague from Ohio for his willingness to discuss some of the issues in some of the areas of disagreement. But that having failed and cloture not being invoked today does mean that we will be in on Wednesday, July 6.

Madam President, I ask unanimous consent to place in the RECORD two letters which I recently received. I believe these letters, one from the American Farm Bureau and the second from the National Association of Manufacturers, provide an excellent overview of the problems the plant closing bill presents.

In addition to these letters I ask unanimous consent that an outline of why mandatory notice provisions should be defeated and an editorial from the June 6, 1988, Washington Post be printed in the RECORD.

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

JUNE 23, 1988.

Re S. 2528—Plant Closing and Layoff Notification.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: We are pleased that the Congress is moving to separate plant closing and layoff notification legislation from trade legislation. We have supported the trade bill that came out of conference and hope that both the Senate and House will move expeditiously to pass that legislation in a form that will be approved by the President.

Although the amended version of the original plant closing and layoff notification legislation will affect only a small percentage of agricultural employers, Farm Bureau remains opposed to such legislation for the following reasons:

1. The concept is wrong. We consider it an unnecessary and objectionable intervention into the decision-making processes of private business by the federal government. While every employer would be wise to provide appropriate notice whenever feasible, it is another thing entirely for the central government to require it.

2. The issue is far more complex than has been portrayed in the media. It is very likely that such a federally mandated requirement would do more harm than good by severely restricting the flexibility that businesses need when faced with an adverse financial situation. The proposal at a quick glance sounds decent and fair to workers, but it is not that simple, and should not be decided based on shallow public opinion polls.

3. Any loading up of the cost of employment, whether that cost is direct or indirect, apparent or hidden, is not in the best interest of workers, business, or the public as a whole. Congress needs to encourage job openings rather than be overly concerned about closings and layoffs.

We urge you to vote against this legislation.

Sincerely,

DEAN R. KLECKNER,
President.

JUNE 21, 1988.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR BOB: We understand that Senator METZENBAUM is again bringing business closing and layoff legislation to the Senate floor for a vote. In the politically charged atmosphere surrounding this legislation, NAM hopes you will read the business closing and layoff provisions carefully before casting your vote.

Although the Senate language was nominally modified, a close reading of the provisions indicates they would be unworkable for several reasons:

This is not a simple 60 day plant closing notification. The inclusion of layoffs is unworkable because: (a) a decline in market demand usually cannot be predicted; (b) the language is unclear about what employees and what facilities or sites are to be covered in each specific layoff case.

Firms would be discouraged from restructuring and making the productivity improvements necessary to become more competitive. When a business is consolidated or sold, the new management must provide jobs for existing employees within a six month period, or the firm faces the notification and penalties of the law. Rather than encourage the changes necessary to meet today's competition, firms would be forced to focus on ambiguous reporting requirements designed to legitimize the status quo.

The provisions are so peppered with ambiguous language and undefined terms that it will cause an explosion of costly litigation and even lead to jury trials. Employers' compliance is judged by subjective after-the-fact tests with an almost unlimited number of potential plaintiffs. With the failure to preempt state and local laws, additional state laws would come into play, and the courts will be arguing over the meaning of this provision for years.

Coverage of the plant closing and notification requirements is extremely broad and covers thousands of small firms, including small retail and service establishments. In the case of manufacturing alone, 22,000 firms that employ between 100 and 300 workers would be subject to the reporting requirements. All together, more than two-thirds of all employees in this country would be covered.

NAM strongly believes that voluntary plant closing notification is an important responsibility of our member companies. We will continue to encourage our members to give this a high priority because workers deserve early warning when possible. We also support the $980 million in worker readjustment included in the trade bill.

American business is struggling to regain its share of a competitive world market so it can continue to provide job opportunities for workers. However, mandatory notice would restrict the flexibility companies need to adapt to changing market conditions. We have only to look at the experience of Western Europe where mandatory notice and other rigid labor laws have inhibited job growth and led to economic stagnation.

In order to enhance a comeback in manufacturing competitiveness, NAM urges you to oppose Senator Metzenbaum's second attempt at passing mandatory notice provisions, filibuster the bill, and be prepared to uphold a presidential veto.

Sincerely,

ALEXANDER B. TROWBRIDGE,
President, National Association Of Manufacturers.

MANDATORY NOTICE: WHY IT SHOULD BE DEFEATED

Mandatory notice would:

Be infeasible—often the financially-troubled employer may not know what will happen in 6 days, let alone 60 days.

Cause the loss of jobs—rather than saving them.

Discourage companies from hiring new employees.

Accelerate the closing of financially-troubled businesses.

Impede the flexibility and responsiveness necessary for rapidly changing economic circumstances.

Cost employers more than $1.8 billion annually.

Invite costly, time-consuming and counterproductive litigation that could paralyze management decision-making.

Handicap U.S. business' competitiveness in a global economy.

Be vetoed by the President.

[From the Washington Post, June 6, 1988]

A SOOTHING NUMBER

Unemployment bumped down a little in early spring, and now it has bumped back up a little. That puts it back where it was in March. In political terms that, oddly, is good for the Republicans. It means that they can talk about the generally strong performance of the economy without setting off more ripples of anxiety about overheating and inflation.

Since monthly figures bounce around a lot, it's always useful to look at the year-to-year trends. Over the past year, the number of people employed in this country has risen by 1.8 million. That's slightly, but only very slightly, less than the rate at which the

economy has been generating jobs since the beginning of the decade.

Europeans profess astonishment at the American success in keeping employment expanding—38 million jobs over the past 20 years, a 50 percent increase despite oil crises, recessions, inflation and high interest rates. The unemployment rate in Western Europe is nearly twice as high as here. Why?

Two reasons explain most of it, and each of those reasons is something of a political embarrassment. Western Europe's economy is dominated by Germany and the Germans choose to run a policy of tight constraint to keep inflation down. The average inflation rate among the Western European countries is now a little lower than here, and in that sense the Germans have been successful. But they grow testy when asked to consider the cost in unemployment.

Another part of the explanation is the extreme rigidity of the European labor market. It is difficult for an employer to fire or lay off people; powerful legislation sees to that. It's a reminder that the contemporary European state is the creation of a generation that lived through two world wars and cherishes stability and security above all else. But it makes employers very wary about hiring. The paradox is that beyond a point that Europe long since passed, laws to protect jobs, result in high unemployment. That's the part of the equation that the European left prefers not to discuss. Here in the freewheeling United States, the law doesn't do much to preserve jobs for the people who have them, with the result that people who don't have them are more likely to find them.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Mr. BYRD. Madam President, I ask that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

A bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes.

The Senate continued with the consideration of the bill.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 10 minutes, that Senators may speak therein.

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

TRIBUTE TO ROBERT C. BYRD

Mr. SARBANES. Mr. President, on April 12 of this year, Senator Majority Leader ROBERT C. BYRD announced that he would not seek reelection as majority leader. At that time he indicated that if the people of West Virginia returned him to the Senate for a sixth term—and there is every indication that they will do so by a resounding margin—he will assume the chairmanship of the Senate Appropriations Committee.

During his 30 years in the Senate, Senator BYRD has served in the leadership for 22 years, and as Democratic leader for 12 years. In every capacity he has served the American people, the citizens of West Virginia, and his colleagues in the Senate with distinction and fairness. I am happy he will continue to serve in a leadership position in the 101st Congress as President pro tempore of the Senate.

I want to take this time to offer a personal tribute to the majority leader and to recall some of his many accomplishments. ROBERT BYRD has had an extraordinary career in public service that has been marked by his private values of hard work, honesty, fairness, and patriotism. He has, as he has said, had what all Americans have—the freedom to dream and to do. What he has done with his dreams is an inspiration to us all.

Our majority leader is a sterling example of what one faced with adversity at an early age can accomplish with perseverance and strong discipline. His life is an American success story. Orphaned at an early age, ROBERT BYRD was raised by his aunt and uncle in the coal fields of West Virginia. He worked hard in school, graduating as valedictorian of his high school class. When he completed school, this country was in the midst of the Great Depression. ROBERT BYRD worked at whatever he could find—pumping gas, produce salesman, grocer, butcher, and welder. During the war years of World War II, he worked as a welder building *Liberty* and *Victory* ships at the Curtis Bay Shipyard in Baltimore so that Maryland has a claim in helping to mold the remarkable career of ROBERT BYRD.

When he returned to his home State after the war, he had decided to serve his State in the political arena and won a seat to the West Virginia House of Delegates. That win started his successful career in politics in West Virginia which includes two terms in the West Virginia House of Delegates, one term in the West Virginia Senate, three terms in the U.S. House of Representatives, and five terms in the U.S. Senate.

Another example of Senator BYRD's hard work and discipline is the way he earned his law degree. While fulfilling all the responsibilities of a full-time Member of Congress, Senator BYRD earned his law degree after 10 years of night classes and study. In 1963, Senator BYRD graduated cum laude, from the American University School of Law.

When one looks at ROBERT BYRD's career, one can see many accomplishments. However, I think it is important to listen to what Senator BYRD believes to be his most important accomplishments as a leader. In his statement of April 12, 1988, he recalled that he was most proud of, "protecting the integrity of the Social Security system, injecting fairness into the budget process, strengthening the Panama Canal treaties, revitalizing the Senate's unique role in American foreign policy, opening the Senate to television, and working to ensure an honest and great people."

I remember of the majority leader leading the fight against cuts in Social Security proposed by this administration and calling on the Senate to protect the benefits of the citizens. He has just led the fight to enact a plant closing notification bill over the veto of the trade bill by the President stating that this legislation is the decent, fair, right, and just thing to do. These four words, "decent," "fair," "right," and "just," mark the efforts that Senator BYRD has undertaken on behalf of his constituents and the citizens of our country.

The side that we see most of ROBERT BYRD is that of master of the Senate rules and the mover of legislation needed to address the needs of our country. However, we also see him as a devoted husband to Erma, his wife of 51 years, and as a father and grandfather. His life and his career have been marked by high moral values, hard work, and a strong commitment to public service to his beloved State of West Virignia, to our country, and to the institution of the U.S. Senate. I want to thank our majority leader for his unfailing courtesy, wisdom, leadership, and, finally, for his friendship.

TRIBUTE TO SENATOR BYRD

Mr. CONRAD. Mr. President, as a relatively new Senator, I have served with our majority leader for only a short time. But it has not taken long to recognize and appreciate the extraordinary effort he has made in the posts of majority and minority leader over the past 12 years. At the close of this session of Congress, when he relinquishes his position as leader, he leaves a remarkable record of accomplishment—and indelible impressions on all of us.

The leader's reputation for hard work and dedicated public service is well-known—and well-deserved. His mastery of Senate rules and procedures is unmatched; no one in recent memory comes close. It has been a

privilege for us to observe his skills in debate and learn from him.

Over a 30-year career, there are numerous examples of the leader's deep and tireless commitment to his job as a legislator. But a recent example—the debate over campaign finance reform—may illustrate these qualities of perseverance best. He spent weeks—days and nights—on the Senate floor, pressing for change in a system which has prompted massive increases in the costs of campaigns and in the influence of special interests. Through a series of eight cloture votes, the leader refused to let the defeats deter him. Although the effort ultimately fell four votes short of breaking the filibuster, it will not have been in vain. One day, the ground work laid in this debate will enable Congress to overcome the resistance and provide an equitable system of financing elections.

The nature of the Senate, defined by our Constitution to take a deliberative approach to legislating, poses special challenges for the leadership. Under procedures allowing for extensive debate and protection of minority viewpoints, it takes great skill to move major pieces of legislation along. During this Congress, the majority leader has guided many major bills through the mine field of the Senate: The INF Treaty; the catastrophic health insurance bill, the omnibus trade revision bill, the Civil Rights Restoration Act, and the Farm Credit Act, to name a few. During this same period of his leadership, the Senate voted to override the President's veto of the civil rights legislation, as well as his vetoes of important measures to reauthorize Federal highway programs and amend the Clean Water Act. Given the institutional constraints, the leader deserves substantial credit for the workings of the Senate over the past 18 months.

The leader's love of the Senate—and respect for its rules and traditions—is unmistakable. He cares deeply about the Senate as an institution, and has emphasized such considerations in his tenure as majority and minority leader. He has not used the power of his leadership positions to advance a particular ideology or particular programs. I would share the observations of some of my colleagues that the leader holds the Senate, as an institution, above any personal agenda. As leader, he has emphasized development of consensus, and has attempted to help his colleagues garner support for their initiatives.

Another trademark is his remarkable memory. Besides the rules and precedents of the Senate, the leader's knowledge of poetry and literature is legendary. His citing of passages of poetry has brightened many a debate in the Senate. The leader is also known for his attention to detail. Frequently, as leader, he will introduce or move legislation on behalf of other members, and I have appreciated the expeditious handling of a number of measures of importance to my State.

As highly as he regards the customs of this Chamber, the leader has encouraged some major departures from tradition—such as the televising of Senate proceedings. This change, which occurred the year before my arrival, has made an enormous difference. Unquestionably, televised proceedings have made it easier to follow Senate debates—and have improved the level of information available to the public. As one who favors greater modernization of the Senate—in such areas as computer technology, for example, I heartily commend his leadership in bringing television to the Senate.

The powers and responsibilities of the leader of the majority party in the Senate are great. It cannot be easy to relinquish such power; it takes considerable courage—and security—to do so. I look forward to my colleague's plans for the next Congress, when he returns from an overwhelming victory in West Virginia. I'm certain he will be a formidable chairman of the Appropriations Committee; he will be in a key position to make a difference to his State and influence the debate over national priorities. He will leave the post of majority leader after having made an enormous contribution to the Senate. I am proud to have served with him as leader, and wish him well in all that lies ahead.

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. ROTH. Mr. President, it is an honor for me to stand today and salute a colleague and friend. It was Robert Louis Stevenson who wrote, "to be a gentleman is to be one all the world over, and in every relation and grade of society." These words are applicable as I pay tribute to the Senate majority leader, ROBERT C. BYRD.

Senator BYRD represents what's right about America, a man who rose from humble beginnings to become one of the most powerful and influential leaders in our great country. And I believe if we were to discover the secret to Senator BYRD's success, both as a citizen and statesman, we would find that he truly is a gentleman—a man whose courtesy and support reach outside his immediate friends and party affiliation and includes us all. I believe we would discover that the virtues he exemplifies—the virtues of courtesy, willingness, readiness, alertness, and attention to detail—have been honed since his days as a member of West Virginia's House of Representatives over 42 years ago. Here in Washington, the gentleman, ROBERT BYRD, is known as much for his kind words and thank you notes as he is for his political savvy.

But the art of being a gentleman is not the only arrow in the quiver of Senator BYRD. With it is the discipline of hard work—hard work that has allowed him to beat the odds time and again. He understands, perhaps better than anyone, that the only difference between success and failure is extra effort—taking one more step when others have come to a standstill. This understanding was highlighted when, in 1963—10 years after he arrived in Washington as a Member of Congress—he received his J.D. from American University's school of law.

I appreciate the fine example Senator BYRD has set for his colleagues and for the Nation. As I appreciate the many opportunities I have had to work with him. Though there be two major parties—Senator BYRD in one and I in the other—we both agree on one fundamental issue, that regardless of the politics, we act in the best interest of America. One example of this was when we joined hands to tighten the provisions in the trade bill to force the President to act quickly when industries key to our national security are threatened by foreign manufacturers and exporters.

I appreciated the opportunity to join with Senator BYRD in this effort, as I've appreciated my years of association with him in this distinguished Chamber. Now, as he reshuffles his important duties in the U.S. Senate, from majority leader to chairman of the Appropriations Committee, I wish him all the best.

SENATOR ROBERT C. BYRD

Mr. MURKOWSKI. Mr. President, this year marks the 30th anniversary of the year the distinguished majority leader, Senator BYRD, was elected to the Senate. Although he will continue to serve with us, at the end of this session, Seantor BYRD will relinquish his role as Senate majority leader.

Throughout his tenure in the Senate, Senator BYRD has ably represented the people of West Virginia . His years in this body have also been marked by his dedication to preserving the tradition and integrity of the U.S. Senate.

In reviewing Senator BYRD's record, one is struck by his numerous contributions to both the Senate and his party. He has served in several leadership roles including secretary of his party conference and majority whip. Over the years he has become one of the foremost experts on Senate procedure, a skill which he has exhibited throughout his career as minority and majority leader.

In addition, the Senator has enjoyed significant committee assignments as a member of the Appropriations Com-

mittee, the Judiciary Committee and the Committee on Rules and Administration.

I have particularly appreciated the Senator's work with the Rules Committee. His reforms of the Senate recess schedule have greatly benefited me and my other colleagues from Western States. He has been sensitive to the demands of time and energy required of those of us who must travel great distances to meet with our constituents and we thank him.

In fact, I would encourage him to benefit from these changes himself. As I understand, the Senator has not had the pleasure of visiting my State. I would hope that his new schedule would afford him the opportunity to visit the great State of Alaska.

Mr. President, I am sure Senator BYRD will continue to strive for excellence in his Senate career. I join my colleagues in commending the majority leader for his dedication to this body and wishing him the best in the years ahead.

TRIBUTE TO SENATE MAJORITY LEADER ROBERT BYRD

Mr. BUMPERS. Mr. President, today I rise to pay tribute to Senate Majority Leader ROBERT C. BYRD. Since the day he accepted his position more than 10 years ago, the Senate has followed a leader unsurpassed in the knowledge of parliamentary rules and procedures. He also possesses a unique understanding of human nature and his tenacity in the things he believes in is legendary. Few Members of the Senate have the ability to balance these characteristics.

It is with regret that we lose Senator BYRD as majority leader, but the consolation is that he is remaining in the Senate and we will continue to have the benefit of his counsel and wisdom as President pro tem and chairman of the Appropriations Committee.

After Senator BYRD's first election to the Senate in 1958, he moved up the leadership ranks to Secretary of the Democratic Conference, majority whip, and then to his current position as majority leader in 1977. He is dedicated to the education of our youth, the protection of our elderly, the health of all our citizenry, and the promotion of small businesses, all issues that I have also been vitally interested in since my early days as a Member of this body.

Senator BYRD's educational experience is a shining example for the youth of today. The son of a coal miner in West Virginia, he pulled himself up by his bootstraps to graduate cum laude with a law degree from American University—while a Member of the Senate. Having read all of Shakespeare's plays, the entire Old Testament, and the unabridged dictionary, he is the envy and awe of every Member of this Chamber.

Senator BYRD is also a personable man. He has a deep love for his family and strong ties to his Southern roots, which I know have been a source of strength for him during his years of dedicated and honorable service to his country.

It is with great respect for ROBERT BYRD as a statesman, a citizen, father, and husband, that I rise to offer this tribute. As a member of the Appropriations Committee, I look forward to working closely with him in the years ahead.

Mr. WEICKER. Mr. President, I rise today to pay tribute to Senator ROBERT C. BYRD of West Virginia, who next January will step down from his position as majority leader. ROBERT BYRD's 12 years as the Senate Democratic leader stand as a concrete testament to a lifetime of integrity, determination and hard work.

BOB has won much recognition throughout his career from colleagues and other political activists, union members, religious groups, veterans organizations, teachers and broadcasters—from people in all walks of life, and it is no wonder. But the award that tells you most about the man is the one he received in 1983 from the Horatio Alger Association of Distinguished Americans.

Throughout much of his life, BOB struggled against hardship. His mother died soon after his birth in 1917 during an influenza epidemic that took so many American lives that year. At the age of 3, he went to live with his aunt and uncle in coal mining country and quickly learned the importance of working hard.

BOB also learned to love books and was graduated valedictorian from his high school in Stotesbury, WV. But the Great Depression was at its worst and BOB could not afford to attend college so he took jobs pumping gas, selling produce, doing whatever needed doing and earned a living. During World War II this included working as a welder in the naval yards of Baltimore and Tampa, helping to construct *Liberty* and *Victory* ships.

After the war was over, he made his first run for office and set about constructing policies to promote peace, prosperity and justice in his home State of West Virginia and in our Nation. In 1946, he won a seat in the State house of delegates after campaigning in every corner in the county. After two terms in the house of delegates and one in the State senate, BOB ran successfully for the U.S. House of Representatives in 1952. From his first day in Congress, BOB displayed a tireless commitment to constituents that eventually led to a landslide victory to the U.S. Senate in 1958. BOB has now been reelected four times with a higher percentage of the vote than any other West Virginia senatorial candidate in history. And that was true in 1982 the same as in previous elections despite a vicious and expensive negative campaign against him by the National Conservative Political Action Committee.

BOB's love of the law has been evident all his life. His goal of receiving a law degree was finally realized in 1963 when, after 10 years of night classes, he graduated from the American University School of Law.

BOB BYRD has been a stalwart and energetic Democrat for more than 40 years, through good times and bad. When he became a member of the Democratic leadership in 1967, he served as secretary of the Democratic Conference. Today he is chairman of the Senate Democratic Steering Committee and the Senate Democratic Policy Committee in addition to his post as majority leader.

It must also be noted, however, that BOB has labored to put the public interest before partisan considerations. He realized early on the quality that comes with having a wide spectrum of ideas receive a fair hearing in the deliberative process. As majority leader, he has aptly guided this body with an insightful understanding of the issues. His respect and appreciation for the institution are evident in his well-known mastery of the Senate rules and procedures. When he retires next January as majority leader, he will leave a legacy of high-mindedness and high principles for future Senate leaders to follow.

I don't want this moment to go by without a personal observation: BOB BYRD is one of the kindest gentlemen I have ever met. He embodies all that is good in politics. I've enjoyed a relationship with him that has grown in affection over the years.

To conclude Mr. President, I would like to take this opportunity to thank Senator BYRD for his 30 years of service in the Senate and to congratulate him on a job well done as majority leader. I look forward to working closely with him in the months and years to come.

IN HONOR OF SENATOR ROBERT C. BYRD

Mr. BINGAMAN. Mr. President, at the close of this Congress, Senator ROBERT C. BYRD by his own choice will leave the office of majority leader. While he may be without the title, as long as he serves in this body he will be very much among the leadership of the Senate. This will happen by virtue of his experience, his standing, his manner and, chiefly, his character.

There is no need for me, Mr. President, to recount here Senator BYRD's personal or professional history, for we are all familiar with his remarkable

record. We have been touched by the story of his pure determination, hard work and innate ability, and the success they have wrought in this man's life. What I will do, Mr. President, is make a brief comment of appreciation on the character of Senator BYRD.

As all of us know and appreciate, Mr. President, Senator BYRD has an astonishing gift for standing on this floor and reciting from memory poetry and verse mastered years ago. Those lines are always as illustrative and pertinent as they are evocative of standards and ideals too often forgotten until he brings them to our attention with that compelling way of his. His life, and the character it forged, bring to my mind four lines from Emerson: "So nigh is grandeur to our dust/So near is God to man/When duty whispers low, "Thou must,"/The youth replies, "I can."

With uncommon devotion and unwavering fortitude, Senator BYRD has served as he has lived—honestly, fairly and generously. This Senate, our country and the people of West Virginia are all fortunate because, as a youth, ROBERT BYRD said, "I can."

Thank you, Mr. President, for this opportunity to pay my tribute to Senator BYRD. While we have not been on the same side of every skirmish, there has not been a moment from the time I came to this Chamber that I have not had the benefit of this good man's best counsel and kind consideration. I value both beyond measure and am proud to be numbered among his friends.

TRIBUTE TO SENATOR ROBERT C. BYRD OF WEST VIRGINIA

Mr. PACKWOOD. Mr. President, I join my colleagues today in giving long-overdue appreciation to our majority leader, the Honorable ROBERT C. BYRD. If I may speak for myself, it has been a rare privilege to serve alongside the distinguished senior Senator from West Virginia for nearly two decades and under his floor leadership for many of those years. It is a mark of his extraordinary dedication to this body and to his native State that he alone made the decision to step down from the leadership at the end of this Congress. For ROBERT BYRD, it is not so much a step down, as a stepping aside. His personal leadership in this Chamber will continue as long as he and the State of West Virginia so choose.

I don't need to stand here today to recall ROBERT BYRD's life achievements, or his record of public service, or his many contributions in Congress. First, let's get one thing straight: his final chapters have yet to be written. I will leave the writing of history to others who, like me, acknowledge the influence a single man—like Senator ROBERT BYRD—can have over the laws of the Nation.

In the history of the Senate, there are few leaders who have served with more skill, more faith, more energy or more commitment. There may well be leaders who have served more years on the Senate floor, but I doubt there are many like ROBERT BYRD who have served more sheer hours. I can think of no one with a greater capacity for hard work and self-discipline than the majority leader. In all our years together, he has never asked more of us than he asks of himself.

ROBERT BYRD and I both share a passion for history, and there is no living man or woman today other than the majority leader, I judge, who knows better the history of this body and the individuals who served here. Senator BYRD understands that our legacy and our traditions make a difference, and that looking into our own past helps give us the perspective, and at times the wisdom, necessary for the future.

ROBERT BYRD has still another passion, and that is for Senate procedure. From the very start, he understood there is precious little gained from writing good laws unless you first master the process of lawmaking. ROBERT BYRD is the consummate lawmaker, in the best sense of those words. However much the Nation changes or the Senate itself may change, there is one constant: the rule of law and the commitment to procedure championed by Senator ROBERT BYRD.

Senator BYRD embodies so many of the qualities of leadership, and has served us unselfishly for so long, it is difficult to express all the respect and gratitude we feel for him on this occasion. Each of us recognize the personal sacrifices he has made to lead the Senate over the years, and for those sacrifices, we also owe a personal debt of appreciation to his wife, Erma.

In closing, let me simply join my colleagues in expressing our warmest, most sincere appreciation to Senator ROBERT C. BYRD. You have served your State, your Nation and this body with distinction and honor as Senate majority leader. You have made us proud.

AESCULAPIUS INTERNATIONAL MEDICINE EL SALVADOR HEALTH PROJECT

Mr. INOUYE. Mr. President, over the past 9 years, the American people have contributed vast amounts of economic and military assistance to the people of El Salvador. The record of this contribution is well known and, I believe, broadly recognized by the Government and military of El Salvador. What is not so widely known or recognized, however, is the heroic contribution made by many volunteers from America who have gone to El Salvador to work with the people in the countryside. One such group of Americans is Aesculapius International Medicine, which has had teams in El Salvador since 1984 providing critically needed primary health care, preventive medicine, nutritional assistance, and health education to a population whose needs fall outside the scope of existing programs.

Mr. President, I believe the work of Aesculapius International should be given the recognition it deserves. I am proud of these Americans who, at considerable personal sacrifice and risk, have responded to needs of a friendly country caught in the grip of a bloody civil war which has produced well over a million refugees and displaced persons, led to the collapse of the national health infrastructure, and produced a profound crisis in public health.

From a base in the northern department of Chalatenango, the Aesculapius team provides health-care services and is responsible for a network of 63 Salvadoran health promoters. The program serves a rural population of over 50,000 people who are without access to adequate health care. The health promoters provide health services to an average of 2,000 patients each month.

In 1986, Aesculapius established a second program site in the town of Santiago de Maria to serve the eastern departments of Usulutan and San Miguel. This group provides health and nutrition services to 20,000 children under the age of 5 and to their mothers.

Both programs emphasize prevention, education, nutrition, child and maternal health, and the control and treatment of common ailments. In 1987, the Aesculapius team in El Salvador consisted of two public-health nurses, a physician's assistant/public health specialist, a health educator/public health specialist, a nurse-practitioner, and a nutritionist. All are fluent in Spanish, have made a 1-year minimum commitment, and are unpaid volunteers.

Because of the nature of the civil war, many Salvadorans view humanitarian agencies with suspicion. Since 1984, no other private organization has successfully maintained on-going community based health programs in the conflicted areas of Chalatenango or Usulutan/San Miguel. Aesculapius has been able to do so because it is in reality a Salvadoran initiative with North American participation, rather than the other way around. In addition, the Aesculapius team members continue to quietly demonstrate their neutrality and commitment to quality health care. In Chalatenango, the project is a component of a larger program of the Archdiocese of San Salvador, and in Usulutan/San Miguel of the Diocese of Santiago de Maria.

Mr. President, I believe Aesculapius International Medicine is serving the interests of the United States through the creation of good will and the promotion of good health in the countryside of El Salvador; I believe that Aesculapius International Medicine is serving the interests of El Salvador by improving the health and lives of the people who must be reached, if the tragic civil war which has held El Salvador in its grasp is to be ended.

Mr. President, I request that additional materials and information on the work of this private, nonprofit organization be included in the RECORD.

The material follows:

AESCULAPIUS INTERNATIONAL MEDICINE

Aesculapius International Medicine is a private, non-profit organization that responds to urgent health problems throughout the world where local, regional, national or international agencies prove inadequate or uninterested. The work of Aesculapius is strictly humanitarian, non-sectarian, and non-partisan. Aesculapius upholds the principles set forth in the Universal Declaration of Human Rights and believes that health care is a human right. To preserve its nonpartisan voluntary status, Aesculapius does not accept funds from the United States government or other organizations with ideological goals.

All medical workers participating in Aesculapius International Medicine projects are expected to have completed professional training. Team members are usually unpaid volunteers. Aesculapius International Medicine is responsible for the orientation of team members to the special medical needs of each project and potential cross cultural issues. Regardless of the extent or duration of each project, one goal that Aesculapius International Medicine views as crucial to any health care effort is the meshing of first world approaches with local practices.

All Aesculapius team members who work in El Salvador must be Spanish speaking and must make a minimum commitment of twelve months to the project.

EL SALVADOR HEALTH PROJECT

Background and Need

The health situation in El Salvador has been in a continuous state of crisis since 1981. From 1980 to 1981, there was a 5-fold increase in reported cases of measles; a 3-fold rise in reported cases of whooping cough; a similar increase in reported cases of typhoid; and a doubling of reported cases of chicken pox [United States Agency for International Development—Office of Foreign Disaster Assistance (USAID–OFDA), March 1982]. Reported rates of tuberculosis also increased. Recent vaccination campaigns conducted by UNICEF and the Salvadoran Ministry of Health (MOH) have increased immunization levels against the common vaccine preventable childhood illnesses, but have yet to achieve the planned 80% coverage rate. Malnutrition and debilitating diarrheal diseases have reached epidemic levels. Among some populations, eighty percent of children under 5 years of age were found to suffer from some degree of malnutrition; thirty-eight percent suffered from second degree (moderate to severe) and five percent had third degree (severe malnutrition) (AID, March, 1984; Gellhorn and Lawrence, et al, 1983). The principle non-accidental causes of death in El Salvodor are due to gastrointestinal diseases and peri-natal illnesses.

Despite an influx of USAID health program funds, and the activities of a number of international private voluntary organizations; many rural Salvadorans remain without access to health services. The regions of greatest need are those in or adjacent to areas of conflict; where the civil war and a lack of adequate resources has prevented the government of El Salvador from reestablishing health programs. In these regions a lack of essential services is combined with an increased demand due to the influx of thousands of displaced persons, and in 1987 the return of thousands of refugees. In these areas, the civil war frequently obstructs the delivery of food and medicines. The situation is further compounded by a deteriorating economy. In 1987, the price of food staples (rice and beans) increased 50 per cent, and the cost of medicines 300 per cent. As a result, respiratory disorders, diarrheal diseases, malaria, skin infections, and malnutrition continue to result in unacceptable rates of infant and peri-natal death. By 1986, infant mortality had reached 71 deaths per 1,000 births nationwide.

The Aesculapius program serves two conflicted regions suffering from the effects of a lack of health services; the department of Chalatenango in the north, and the departments of Usulutan and San Miguel in the east. In these rural areas, a network of community based health promoters, trained by Aesculapius and our Salvadoran counterparts, are the sole provider of regular primary and preventative health care.

Objectives

The project's goal is to provide essential health services to persons whose needs fall outside the scope of existent programs. This is done through the training and support of community based health workers. Emphasis is on prevention, education, child and maternal health, and the control and treatment of common ailments. The team relies on locally available medical supplies, technologies, and natural medicines, thus avoiding the creation of an extreme dependence on outside agencies and funding.

Activities 1987

CHALATENANGO

Clinical Activities

The Aesculapius team in Chalatenango lives in Aldeita, a rural village 50 kilometers north of San Salvador. For the past three years, they have been intimately involved in the provision of curative health services in the Chalatenango region. Through the end of 1987, the team held clinics in Aldeita twice a week and monthly in the nearby village of Coyolito. Health promoters from around the immediate area assisted the team on Aldeita clinic days. Unitl 1987, the Aesculapius team attended about 300 patients each month. In 1987, the number of patients seen each month increased dramatically to 1,000.

This increase was due to an influx of patients from parts of Chalatenango with access to government supported health services, but without medicines. After discussion with the Archdiocese health office and the local promoters, it was decided to limit the number of consults in the Aldeita clinic, and continue to direct our efforts toward people without access to other sources of health care. The number of consults given in the Aldeita clinic are now limited to fifty per session. Emergency services and immediate attention for those who have traveled a great distance are still available on a 24-hour basis.

In 1987, the work of the Aesculapius team shifted from the clinic in Aldeita, whose operations were turned over to the community's health promoters in October 1987, to support of the health promoters in the field. The Aesculapius team continues to provide basic medical and nursing services as needed, but now in the form of "referral" or back up services to all the health promoters in Chalatenango.

Health Promotion

Regular communication and travel are frequently disrupted by the war. Large segments of the rural population are without access to health care. To meet this need, the Archdiocese of San Salvador, with the assistance of Aesculapius, established a rural network of locally trained, non-physician health promoters. This network meets the basic needs of people without access to other health care, and promotes health related activities such as latrine and potable water projects.

At each of the 23 sites in Chalatenango, the 63 health promoters provide health services and basic medicines. Each site is staffed by one or more health promoters with advanced training, able to diagnose common ailments. The promoters provide health education, instruction in environmental sanitation, disease prevention, and nutrition education to the people within their community. All 23 sites receive regular administrative, clinical, and educational support from the Aesculapius team.

In Chalatenango, the health promoters—who are unpaid volunteers—serve communities ranging from 250 to 6,000 people. The number of patients seen each month varies seasonally. The fewest patients are seen in January, and the most in April 1 and May, the start of the rainy season. On the average, the health promoters see 50 patients per month at each site during the low season and 100 patients per month during the high season. Children under the age of five years comprise between 20-40 percent of patients seen.

The major illnesses seen in the conflicted regions continue to be infectious diseases—respiratory, gastrointestinal, parasitic, malaria, and of the skin. In children, malaria and diarrheal disease are the most common wet season diagnosis, while respiratory complaints and skin infections are the most common during the dry months. Among adults stress-related disorders including gastritis, headache, and body pain are common.

The Aesculapius team works closely with the health promoters situated throughout the Department of Chalatenango. Each promoter is visited monthly by a member of the Aesculapius team. Usually, these visits take place in the promoter's home village. This provides not only an opportunity to observe the promoter in his or her own place of work, but increases their acceptance by the community. In regions where travel is difficult due to geography or violence, promoters meet monthly at a centrally located village. During the monthly visits, medicines are delivered, records reviewed, and follow-up teaching sessions held. Promoters are observed while seeing patients, and conducting health education activities. Their skills as clinicians and educators can then be evaluated, and strengthened. The monthly visits also provide an opportunity to assess the overall situation of the promoter, and determine their personal needs, complaints or stresses as health care professionals.

Larger meetings of health promoters, geographically based, are held every four to six months at a central site. These meetings address didactic, continuing education needs, and enable health promoters to exchange experiences and develop a system of mutual support. The Aesculapius team provides the health promoter network with referral and medical support by holding "clinic" at a number of locations in Chalatenango in conjunction with visits to the health promoters.

Basic medicines are supplied by the Archdiocese and delivered to the communities by the Aesculapius team. The medicines are provided free to the community, although patients are asked to make a donation after receiving treatment. The communities are increasing efforts to improve self sufficiency, and as one result are replacing expensive manufactured medicines with appropriate locally available natural (herbal) remedies when they exist.

A major initiative in 1987, has been to form or strengthen local village health committees to establish a base for long term community cooperation in health. This will also provide for greater local autonomy.

Health Promoter Training

The Aesculapius team, working closely with Salvadoran health workers and educators, has adapted established health curricula to the training of Salvadoran health promoters. The basic health-promotion training has been divided into four levels. Level I instruction includes an orientation to basic concepts of health and disease, epidemiology, disease prevention, and the public health situation in El Salvador. Principles of hygiene, nutrition, prevention, and environmental sanitation are also introduced at this level. Level II provides for instruction in physical examination, the care of the ill, and the administration of medicines, as well as elaboration of public health principles and concepts of health education. On completion of level II training, the health promoter is able to conduct health education classes in the village and schools. Level III focuses on general principles of diagnosis and treatment, as well as the specifics of the most commonly encountered illnesses. The level IV course includes instruction in first aid, and training in the administration and operation of a dispensary.

Promoters later take an advanced two week course in maternal and infant health. Topics include normal pregnancy and nutrition, pre-natal care, and the major and minor problems of pregnancy. An advanced course on "popular education" methods was introduced in 1987.

Work With the Displaced

Communities of displaced people are situated throughout Chalatenango. The Aesculapius team has established outreach programs to these communities to provide food, shelter, and medical services. Working with local committees, the Aesculapius team has taken responsibility for the distribution of emergency food-stuffs to the displaced in the area. Additionally, Aesculapius team members, again working with village committees, have established infant and maternal nutrition programs in several locations. These programs provide monthly food supplements to expectant women, breast-feeding mothers, and children under six years of age. At the time of the food distribution, the team members give talks on nutrition, weigh the children, and examine them for other serious health problems.

The Archdiocese of San Salvador has established a community of 50 displaced families near Aldeita. The Aesculapius team is involved in providing for the needs of the community and has assumed responsibility for training its health promoters. The maternal and infant programs created in conjunction with the Archdiocesan CARITAS continued in 1987 in Coyolito, Quitosol, and Copinolito. Monthly food distributions are a central feature of the program. A food distribution program for displaced people in Coyolito also continued throughout 1987.

USULUTAN AND SAN MIGUEL

Introduction

In April 1987, Aesculapius initiated work at the program's second site based in the town of Santiago de Maria and serving the Departments of Usulutan and San Miguel. As the diocesan CARITAS serving the area was providing food supplements to more than 20,000 women of childbearing years and children under five, the Aesculapius team established a program of basic health education, and child survival to accompany the program. Under this program, representatives of each community receiving food from the diocesan CARITAS are being trained as community health promoters, and the CARITAS health education staff as the trainers. The last of the community health promoters will complete their training in March of 1988. As of November, the training is being conducted by the CARITAS staff alone, with the Aesculapius team in a purely advisory role.

Health and Nutrition Promoter Training

The course covers basic nutrition, the promotion of breast feeding, prevention of diarrheal diseases, pre- and peri-natal care, educational methods for health and nutrition promotion, and the causes, assessment, and management of malnutrition and common pediatric illnesses. The instruction emphasizes the use of a variety of education techniques, including socio-dramas, demonstrations, posters, story-telling and discussions.

During the summer of 1987, the Aesculapius team devised and introduced a number of health education "games" to enhance the participatory aspects of the health educator training, and their ability to recall and apply the information learned during the classes, including: a jig saw puzzle encompassing the symptoms, causes, treatment and prevention of diarrhea, a "hot potato" game addressing the problems of pregnancy, a board game based on "Chutes and Ladders" where competing teams were required to correctly answer questions on nutrition, pregnancy, diarrhea, re-hydration, and malnutrition in order to move their pieces ahead, and a "bingo" game incorporating information from the entire range of questions covered during the course of instruction. The games were not only helpful as an educational tool, but proved to be a useful test of the promoters knowledge.

The course was taught in three cycles to include all the communities. Each course spanned a seven month period and encompassed a total of ten and one half days. By the end of 1986, the first group of 63 participants from 23 community centers had completed the initial ten-and-a-half-day series of instruction. The second group of 32 students from 18 communities began their instruction in March 1987, completing in August of the same year. The third and final group of 28 students from 15 communities began their instruction in September, 1987 and will finish in March, 1988.

The Aesculapius team and the CARITAS staff held monthly follow-up meetings with the graduates of the 1986 course. The meetings provided an opportunity to provide support to the promoters, and discuss problems. At the same time, the staff taught and encouraged the community health and nutrition promoters to lead discussions rather than to lecture. They also presented refinements made in the "nutrition campaigns." In October, 1987, the staff began similar follow-up meeting, with the graduates of the second course.

Health and nutrition promoter training and supervision was conducted in close cooperation with the diocesan CARITAS staff; its director and two health educators. In 1986, preparation for the first course included extensive in-service training conducted in conjunction with the CARITAS staff. Intensive in-service education continued in 1987. By mid-year, the CARITAS staff was able to assume a greater share of responsibility for course planning as well as instruction. In November, they assumed full responsibility for the course. The CARITAS staff have similarly assumed full responsibility for the monthly follow-up meetings, and the nutritional campaigns. The Aesculapius staff continues to provide support, advice, and supervision. The Aesculapius role in the course will come to an end in March 1988, with the completion of the current course cycle. The diocesan CARITAS will then continue the course and the supervision of the health promoters on its own.

The Nutrition Campaign

As part of the CARITAS food supplementation program, health promoters weigh recipient children and plot their growth curves. The Aesculapius team developed a program whereby children under 75 percent weight-for-age (approximately 15 percent of beneficiaries fall into this category) attend a "Nutritional Campaign" held quarterly in each village. The "campaign" consists of a presentation on health and nutrition, deworming, the provision of vitamins of all children under 75 percent weight-for-age, a screening for anemia and low-mid-upper arm circumference. "Campaign" activities are conducted by promoters who have completed the CARITAS/Aesculapius health and nutrition course.

Children with arm circumference measurements less than 12½ cm are in addition evaluated medically by the Aesculapius team and given medical treatment when needed; in addition their mothers are given diet counselling, and taught to prepare a high-protein drink for which the diocesan CARITAS provides the ingredients.

Pre-natal Program

As part of a pilot pre-natal program, initiated in 1987, the Aesculapius team provided pre-natal care to 22 mothers in two villages. In addition, the team trained the community health promoters in the two villages, and the CARITAS health educators in pre-natal care. Once the training is finished, the community health promoters under the supervision of the CARITAS health educators will assume responsibility for the program.

Program Support and Management

Evaluation

To further assure the success of the team's efforts, support and evaluation missions by health professionals from the United States are held quarterly. Their task is to ensure that accepted medical standards, appropriate to the setting, are maintained. In addition, they provide technical assistance and medical consultation to the in-country team. These missions incorporate

specialists in primary care and public health.

Recognizing that humanitarian programs of this sort often perpetuate medical practices without solid evidence of their effectiveness in improving health and health conditions, Aesculapius attempts to evaluate changes in the population's health status over time. This is done by assessing basic health measures such as: infant mortality, levels of malnutrition among young children, birth weight, infectious disease incidence and changes in sanitary conditions. Such indicators will provide evidence of the program's impact in order to provide not just a humanitarian gesture, but the best health care possible given the realities of the situation.

In 1987, two major evaluations were conducted with health promoters and their communities in Chalatenango. The first involved an analysis of the health promoter training program. The second was a survey analyzing the extent of health education and promotion activity within the communities.

Administration

Since the team is connected to a larger Salvadoran structure, that of the Archdiocese of San Salvador, minimal administrative support is required. A project coordinator based in the United States is responsible for the logistical needs of the team, preparing and organizing support missions, and maintaining contact with the other humanitarian organizations from North America and Europe that work in El Salvador. Aesculapius International Medicine recruits health workers, prepares them, does fund raising, and takes overall project responsibility.●

ASSASSINATION OF DEFENSE ATTACHÉ

Mr. COHEN. Mr. President, this morning's newspapers again contain sad headlines about the senseless killing of an innocent American whose only crime was his service on behalf of his Nation.

Navy Capt. William Nordeen, the United States defense attaché in Greece, was killed while driving to work when a powerful bomb planted in a car near his home by a left-wing terrorist group exploded. The headline in today's New York Times, "U.S. Military Aide Killed in Athens Car Bombing," is all too sadly reminiscent of one which appeared in the same paper nearly 5 years ago. The November 16, 1983 headline read, "U.S. Navy Officer is Assassinated in Athens by Unknown Gunmen."

These two assassinations serve as a grim reminder that the brave men and women who serve in U.S. diplomatic posts and military installations throughout the world are daily putting their lives on the line for their country. Captain Nordeen, and Capt. George Tsantes 5 years ago, was, in his role as attaché, serving in a representational, not a combat, capacity. Yet, the perpetrators of yesterday's heinous crime chose to target this dedicated career man, who was scheduled to retire in August and who leaves a widow and 12-year-old daughter, for no reason other than the fact of his being his Nation's representative to Greece's military.

As vice chairman of the Senate Select Committee on Intelligence, I am particularly aware—and appreciative—of the great contribution made by Captain Nordeen and his counterparts in embassies around the world. Defense attachés play a critical role as part of our Embassy teams in 90 posts. Approximately 300 of these soldier-diplomats serve both in the larger and more glamorous capitals and in many of the smaller and more remote embassies as well. As the assassination of Captain Nordeen—and the killing of Army Maj. Arthur D. Nicholson, Jr., at the hands of a Soviet soldier in East Germany 3 years ago—demonstrate, one does not have to be in a war zone or in the middle of a firefight to face death as a member of our Armed Forces.

Captian Nordeen was typical of the men and women who serve as part of our attaché corps. He had a distinguished Navy career spanning nearly 30 years. Among his earlier assignments had been service with the Pacific Fleet, at the naval air station at Jacksonville, FL, and as an assistant naval inspector in Washington. He had been defense and naval attaché in Athens since August 1985.

The Defense Attaché Corps, of which Captain Nordeen was a part, is comprised of officers and enlisted personnel from the Army, Navy, Air Force, and Coast Guard. The individuals who serve as attachés come from all branches of these services. The training they receive at the defense attaché school in Washington, coupled with their experience as infantrymen, pilots, armor officers, or ship captains, enables them to fulfill the essential role as attaché.

This can be particularly important in Third World countries where the separation between the military and civil sectors is often blurred. But it is also essential in larger, more developed countries where our Nation has close defense relationships or in less friendly counties where an onsite military observer can provide information about capabilities and intentions.

Defense attachés are overt collectors of information, and they serve a variety of other missions as well. They act as the Ambassador's adviser on military or politico-military affairs; represent the Department of Defense, the service Secretaries, and the military departments to the host country; and administer security assistance programs and foreign military sales as directed.

Those of us who have had the opportunity to meet attachés in visits to foreign embassies have a deep appreciation of the tremendous contribution they make on a daily basis, but I fear that we too seldom pay proper recognition to them and to the efforts they are making. Our attachés around the world can take great pride in the work they are doing in the service of their fellow Americans.

It is thus with sadness, but with a deep sense of gratitude, that I today recognize all that Captain Nordeen did in his 3 years as an attaché in Greece on behalf of his Nation. It was a proud capstone to a distinguished career. His fellow attachés who continue to serve in their posts around the world need to know how much we appreciate and value their contributions as members of the attaché corps.

TRIBUTE TO SAMUEL EARLE HOBBS

Mr. HEFLIN. Mr. President, it is my great honor to rise, today, in tribute to my good friend, Samuel Earle Hobbs, of Selma, AL. Sam Earle Hobbs has worked tirelessly throughout his life in service to Alabama and America. I can think of no one who has set a finer example of public service or who has contributed more to the well-being of the people of my State and our Nation. Alabamians have learned through generations of experience that, for the entire Hobbs family, service on behalf of others is something that is expected. And Sam Earle Hobbs has not only upheld this fine Hobbs family tradition—indeed it is a family trait, the way bushy eyebrows would be for other families—Sam Earle has not only upheld this family characteristic of outstanding and invaluable public service, he has expanded it, and enriched it. He has written another distinguished chapter to be added to the already full record of public service by the Hobbs family. And for his and his family's efforts and accomplishments through many generations, all of the people of my State and our country owe Sam Earle Hobbs and the entire Hobbs family a great debt of gratitude.

Sam Earle Hobbs' forebearers were among the first settlers of Alabama. Samuel S. Earle, the maternal ancestor of Sam Earle Hobbs, arrived in Alabama around 1820 to become a doctor, planter, and legislator and in 1833 became one of the first trustees of the University of Alabama. Sam Earle's grandfather, S.F. Hobbs, moved from Maine to Alabama shortly before the War between the States, and fought for the Confederate Army while two of his brothers served the Union Army. After the war he established a jewelry store in Selma.

Sam Earle's father, Sam Hobbs, was an attorney who practiced in Selma and who contributed a great deal to Alabama during one of the most tumultuous periods in our Nation's history—through the years of the Great

Depression and World War II. In 1931 he was appointed by President Herbert Hoover as Chairman of the Muscle Shoals Commission, which helped to establish the Tennessee Valley Authority. In 1933 he served as chairman of the Alabama National Recovery Administration Committee. In 1934 he was elected to represent the people of Alabama in the U.S. House of Representatives and served for eight terms until 1951. It is apparent that Sam Hobbs was immediately recognized by his colleagues in the House as a man of great integrity, intellect, and legal expertise when in 1936 he was appointed as one of the managers to conduct the House impeachment proceedings against Judge Halstead L. Ritter. While he was a Southern conservative Democrat he was also a New Dealer and was tremendously helpful in gaining adoption of many of President Roosevelt's policies that helped America to survive the blight of the depression.

Sam Earle attended the University of North Carolina, received his master's degree in political science from George Washington University, received his law degree from the University of Alabama like his father before him, and then received a master of law degree from Yale University. He went into public service immediately, compiling a record in his first years out of school that rivals the lifetime achievements of most others. He accepted a post with the Justice Department in 1940. He then spent 3 years as an FBI agent before receiving a commission from the U.S. Navy in 1944 and seeing action in New Guinea and Okinawa. After the war he served in the occupation forces in Japan, and then returned to Alabama to become a professor at the University of Alabama School of Law.

After teaching, Sam Earle finally returned to Selma and began practicing law with his father, who unfortunately died soon thereafter. Sam Earle has excelled in the practice of the law, being well qualified for this profession by knowledge, intellect, demeanor and personal drive. This disposition for the practice of the law must be another Hobbs family trait, for his brother, Truman Hobbs, was also a great lawyer and is now a great judge. Sam Earle is a lawyer's lawyer—quiet, thoughtful, dignified, always a true gentleman. His example of excellence and professionalism will long remain as a standard to which laywers throughout the State will aspire. An indication of the high esteem with which he is held by both his colleagues in the law and by nonlawyers is the fact that he was chosen to serve as a Dallas County district court judge.

In addition to his contributions to the law, Sam Earle has been an outstanding leader of the community of Selma and of the entire State. He has been involved in banking, has worked to attract and benefit business and has been a cornerstone for the improvement and development of Alabama. He has also worked to promote education and health care in his community, having served as a member of the local school board, and of the Selma hospital's board of directors. Additionally, the contributions of both his time and resources to various charitable organizations have provided a tremendous help to the needy and the underprivileged.

Perhaps one of the greatest contributions that Sam Earle has made to my State—which I am sure ranks among those of which he is most proud—is the service he has provided to the University of Alabama. Time after time he has given willingly and without hesitation of his time, energy, and resources to the service of our school. He served for two decades as a trustee of the University of Alabama and served as chairman of the board of trustees. He was named to head the search committee that selected President Joab Thomas as president of the university—whom many believe has been one of the greatest university presidents in the Nation.

Recently, my friend Sam Earle Hobbs was awarded an honorary doctorate degree by the University of Alabama and was selected to give yet something else to the University of Alabama—the commencement address. I believe it is a remarkable speech and provides great insight into the character of this outstanding man. In it, he presents to a younger generation, the graduates of 1988, a very accurate description first of the way things were when those of his and my generation were young, discusses the contrasts between my generation and the young people of today, and then poses the question, "Where do we go from here?"

Unlike many of my generation who may yearn for the "good old days," believing that America has reached its peak, Sam Earle Hobbs is an eternal optimist who believes in the fiber of the American people, and who is certain that our system of Government, which guarantees the freedom and liberty of the people of our Nation, is the best in the world. Thus, he is confident that the young people of today will continue to embrace our America's outstanding tradition of leadership and good citizenship as they move through life.

Sam Earle Hobbs and the entire Hobbs family have, for generations, provided a tremendous example of this type of service for Alabama and for America. In this era when so many citizens often resort to apathy and inaction in the face of unreasonable pessimism, cynicism, or disillusionment, I believe that the example of service and achievement that Sam Earle has made and the message he has given in his commencement address to the graduates of the University of Alabama would be enlightening for all Americans.

Therefore, I ask unanimous consent that both the commencement address delivered by my friend at the University of Alabama and a newspaper article which describes the outstanding contributions and achievements that he and his family have made for generations be printed in the CONGRESSIONAL RECORD. I hope all of my colleagues can take the time to read the speech and the article and that many others who may read the CONGRESSIONAL RECORD will enjoy it as well.

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

COMMENCEMENT ADDRESS BY SAMUEL EARLE G. HOBBS, TRUSTEE EMERITUS, UNIVERSITY OF ALABAMA TO THE UNIVERSITY OF ALABAMA GRADUATES

WHERE DO WE GO FROM HERE?

Chancellor Bartlett, President Thomas, Distingished guests, Faculty members, Graduates, Ladies and Gentlemen. The subject of my talk is "Where Do We Go From Here?" I very much appreciate Dr. Thomas' gracious introduction of me. His remarks were much too complimentary, but he did not mention that your speaker today is, among other things, a "Notch Baby".

It is true that I, along with Trustee Massey Bedsole, am a "Notch Baby". We, and perhaps 100,000 other Alabamians, are the babies born in the "notch" between 1917 and 1921. The Congress, in 1977, perceiving a shortage of available funds, deprived us "notch babies" of certain Social Security benefits which those older than we obtained. I am not bitter about this. In fact if I had not received a petition about it from some of my fellow "notch babies" I would have been totally unaware of any deprivation.

Even so, being a "notch baby" I have become sensitive to our slant on life, conditioned as it has been by an earlier time when we graduated from college. At a recent class re-union a prose poem, or essay, was read by a "notch baby" recalling "The Way We Were" in the late thirties. Its author is Anonymous, but we can certainly identify with it. I am grateful to Mrs. Ehney Camp Sr. for supplying a draft which I have edited slightly.

THE WAY WE WERE

We were before television and V.C.R.'s. Before penicillin, the pill, polio shots and antibotics. Before frozen food, nylon, dacron, Xerox, Kinsey. We were before radar, fluorescent lights, credit cards and ballpoint pens. For us, time-sharing meant togetherness, not computers; a chip meant a piece of wood; hardware meant hardware: and software wasn't even a word. In those days bunnies were small rabbits.

We were before DDT, DNA and vitamin pills. Before disposable diapers, scotch tape, the automatic shift and Lincoln Continentals.

When we were in College, pizzas, frozen orange juice, instant coffee and McDonalds were unheard of. We thought fast food was what good Catholics ate during Lent.

We were before FM radio, tape recorders, electric typewriters, word processors, electronic music and disco dancing. We were before pantyhose and drip-dry clothes. Before ice makers and dish washers, clothes dryers, freezers and electric blankets. Before men wore long hair and women wore sweat suits. Almost always we got married first and then lived together. How quaint can you be?

In our day cigarette smoking was fashionable, grass was mowed, coke was something you drank and pot was something you cooked in.

We were before coin vending machines, jet planes, helicopters and interstate highways. In the thirties "made in Japan" meant junk, and the term "making out" referred to how you did on exams.

In our time there were five-and-ten cent stores where you could buy things for five and ten cents. For just one nickel you could ride the streetcar from the "Soup Store", where the School of Communications is now, to the Bama theatre, make a phone call, buy a Coke or buy enough stamps to mail one letter and two postcards. You could buy a new Chevy coupe for $600.00 but who could afford that back then? Almost nobody! A pity, too, because gas was eleven cents a gallon.

We were not before the difference between the sexes was discovered, but were before sex changes. We just made do with what we had.

And so it was back then. This is "the way we were"—And we Loved it!

As graduates in 1988, this recital may cause you to wonder what sort of life you will be facing in about 2028-2038 A.D., or perhaps much sooner. I suspect the changes will come even faster and be even more pronounced than they have been for us. I'm sure you wonder, "Where do we go from here"?

I realize that in this booming, buzzing confusion of our high tech civilization as we near the end of this century there are those observers who take a pessimistic out-look on our American future, Witness: Allan Bloom's "The Closing of the American Mind," the public school study, "A Nation at Risk" and more recently, Paul Kennedy's "The Rise and Fall of the Great Powers." While there is some cogent evidence in support of Paul Kennedy's pessimistic thesis, it is my view that in spite of the many grave problems which confront America and which your generation, and those coming later, will face—drugs, a great trade imbalance, a national deficit of tremendous proportions, leadership problems, organized crime—America will survive and indeed, will propser. My optimism, at least, in part is supported by a belief in a free society, American genius, and my own observations of what has been accomplished here at the University during Dr. Joab Thomas' tenure as president for nearly seven years.

In saying this I do not speak in derogation of the University's achievements in the many years before 1981. There have always been distinguished professors here, outstanding research has been performed and signal services have been rendered by the faculty of this institution to the State of Alabama.

Even so, a brief recital of recent progress seems quite appropriate:

"The core curriculum was begun here some five years ago in recognition that a primary role of education is the transmission of our civilization's basic cultural values. It is deemed highly successful by our faculty and students, and notably, Alabama was one of the first state-supported universities to establish a core curriculum for its undergraduates."

"Admission standards have been raised, an honors program has been instituted, many more national merit finalists are now here, and student enrollment has increased, while the student retention rate has improved.

"The University, principally through its graduate programs has positioned itself to become a major research university. It now offers some 45 doctoral degree programs in a variety of disciplines, and in spite of the recurrent pro-rationing of state funds, the University faculty, by objective standards, appears stronger than ever before.

"Notable too has been the out-reach of the University in the economic development in both the Tuscaloosa area and the state-at-large. The Rochester Products Carbureto plant of G.M. here is a highly successful illustration of University—private sector cooperation to save valued jobs and to make a manufacturing enterprise profitable. Since then other ventures both here in Tuscaloosa, and in cooperation with other communities in this state, has enabled this university to perform a valuable service to the whole state with its store of knowledge and expertise.

"Time does not permit me to speak in detail of the high tech computer programs that have been instituted here, the successful capital funds drive, the increase in alumni support, nor even the ambitious building program at the University embracing the Bryant Center Complex, the Moody Music Building, the new Athletic facilities and the expansion of Bryant-Denny Stadium."

While you graduates have been an intimate part of this exciting activity here you must realize that this graduate week-end is named "Commencement" for a reason, since it marks the beginning or commencement of your life in the world outside.

Thomas Jefferson once said,

"I know of no safe depository of the ultimate powers of society but the people themselves; if we think them not enlightened enought to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education."

While I do not think you graduates are all wise, I trust that your education so far will inspire you to continue to question, to make rational decisions and to concern yourselves with public issues so that your opinions and views will have an impact on Alabama's and the nation's problems after you leave here.

We now know that dolphins, seals and chimpanzees have a remarkable capacity to accept training. But Robert M. Hutchins in an essay written some 17 or more years ago wisely observed:

". . . There is a difference between learning and education. A student can learn many things—perhaps he could even learn everything—without being educated. He can learn how to read, but, if he does not read anything thereafter, or if he has no judgment about what he reads, if the ability to read does nothing to civilize him, we should be hard put to say that any education had taken place."

Life here in America if it is to be satisfying to the problem-solving, civilized man or woman must involve his or her on-going education. If that happens for you, then the answer to the question, "Where do we go from here?" begins to unfold. I suggest you will find a better life for yourselves and your children in a better America.

Most of the changes since my college days which I mentioned have been superficial—even though some may have profoundly affected the way we live. In the rushing, high tech era where you are now, changes come fast and furiously. This is a major concern. My admonition to you in this respect was well expressed by Dr. Paul A. Volcker, former Chairman of the Federal Reserve System, in a commencement address he made last year at Emory University. After commenting on the storage, retrieval and transmission of information by computers, and after observing the speed of communication and travel, he asks,

". . . But when we move about so easily, will we be able to retain a solid sense of really belonging anywhere? When things are changing so fast, do we really have time to absorb fully, to assimilate and to consider all that information and the implications of what we do? Are we so absorbed with the latest printout of a computer that we will neglect the wisdom accumulated in books centuries ago? And most dangerous of all, are we in some danger of losing a sense of standards, of what's right, what's lasting and what is necessary to maintain a humane community, and the personal satisfaction that must be a part of it."

And finally, to you graduates from an old "notch baby". This state university has a long and proud tradition. It celebrated its sesqui-centennial anniversary some seven years ago. It has played a major role in shaping the lives of many of Alabama's and this nation's leaders as well as this country's solid citizens in all walks of life. As its newest graduates, I am confident you will continue this tradition of leadership and good citizenship as you move on.

Congratulations and our very best wishes! May God go with you!

[From the Montgomery Advertiser, May 8, 1988]

HOBBS FAMILY FULL OF HISTORY, HEROICS

(By Alvin Benn)

SELMA.—When it comes to public service in Alabama, the Hobbs family of Selma is on a special plateau.

A Hobbs maternal ancestor was a pioneer in the state and served as one of the University of Alabama's first trustees.

Sam Hobbs represented a large district in Congress for 16 years and helped draw up the War Powers Act during World War II.

Robert Knox Greene, a Hobbs cousin, served as Hale County probate judge and was a trustee at Auburn University.

Truman Hobbs currently is a federal judge in Montgomery.

Then, there's San Earle Hobbs, who has put together the most varied public service career of them all.

An Ivy Leaguer, he has worked for the Justice Department, became an FBI agent, saw some of the hottest action in the South Pacific during World War II, was a Dallas County District Court judge, taught law and later was named chairman of the UA Board of Trustees.

In between, he found time to serve on a Selma hospital's board of directors and the local school board, not to mention working on a variety of charitable endeavors.

"Public service was just something we were brought up to expect," Hobbs said recently. "Our father told us we were here to serve."

He's slowed his pace considerably these days, but a proud moment awaits him next Saturday when he receives an honorary doc-

torate and then delivers the UA commencement address.

"I'd prefer to call it commencement remarks because addresses are something reserved for people like Lincoln," said the 71-year-old Hobbs.

He says there are too many pessimistic people around today and he plans to accentuate the positive in his speech.

"There is a terrible pessimism today and not entirely without reason," he said, during an interview at his law office. "We've got a huge trade imbalance and deficit, a drug problem that is very real and illiteracy is a big concern."

But, he quickly added, the United States has licked many more problems than those the past two centuries "and I believe we'll handle the current ones as well."

Optimism always has abounded in the Hobbs family, probably dating back to 1820, when maternal ancestor Samuel S. Earle arrived in Jefferson County to become a doctor, planter, legislator and UA trustee in 1833.

S.F. Hobbs journeyed south from Maine shortly before the Civil War and, after serving in the Confederate Army while two brothers fought for the Union, established a jewelry store in downtown Selma.

Several decades later, his son, Sam Hobbs, was elected to Congress and served for eight terms.

In the late 1920s, President Herbert Hoover named him to a special commission that helped establish the Tennessee Valley Authority.

Rep. Hobbs was an anomaly of sorts—a conservative southern Democrat as well as a New Dealer during the Roosevelt years.

His son, Sam Earle, went to the University of North Carolina, got his master's degree in political science from George Washington University, his law degree from the University of Alabama and his master of law degree from Yale University.

With those credentials, he might have picked his future, but it didn't quite work out the way he originally thought it would.

"I wanted to go into the foreign service, but after France fell in 1940 I went to work for the Justice Department instead," he said.

Since he could read French, he helped translate intercepted messages from part of the French fleet that escaped the Nazis. Then, he spent three years as an FBI agent, handling counter-espionage cases as well as security matters during a very tense time.

In 1944, he received a commission in the Navy, saw action in New Guinea and Okinawa and served in the occupation force in Japan after the war.

After teaching law at the University of Alabama, he returned to Selma to begin practicing law with his father, who had left Congress.

It was a short partnership. The former congressman died only three months after his son joined him.

One of Hobbs' first big cases was as court-appointed defender of a black man accused of raping a white woman.

Tried before an all-white jury, which was the rule in the early 1950s. Hobbs' client was convicted, but spared the death penalty.

"I considered that to be a victory," he said. "Our defense was that his confession had been coerced."

Hobbs' support of the late Ryan deGraffenried for governor a few years later did not endear him with former Gov. George Wallace and he believes Wallace tried to keep him off the UA board of trustees when he was being considered.

A year after Wallace's "Stand-in-the-Schoolhouse-Door," Hobbs became a UA trustee and served with distinction for more than two decades.

He was there when President Frank Rose stepped down and David Mathews took over, only to be bounced after returning from Washington on a leave of absence to work for President Gerald Ford.

"That was a big mistake, granting him that leave of absence," Hobbs said. "We were flattered the president wanted him and I guess most of us didn't think he'd come back."

Mathews did, and ran into a hornet's nest of faculty opposition, creating another vacancy to fill.

Hobbs was named to head the search committee for a replacement and the group came up with Joab Thomas—a man whose praise he sings almost daily.

When it comes to pride, however, Hobbs saves much of his for his "kid brother" in Montgomery.

"He's done extremely well, especially after succeeding someone like Frank Johnson," he said, referring to U.S. District Judge Truman Hobbs.

For most families, someone who becomes a federal judge would be worth years of bragging.

In the Hobbs family, it's almost expected.

INDEPENDENCE DAY 1988

Mr. DOLE. Mr. President, over 200 years ago during another hot summer, a group of men gathered in Philadelphia to form a nation. A nation unlike any other in the world. A nation founded on a new idea—equality of all people. A nation offering its citizens political and economic liberties unknown in that world and, sadly, still unknown in much of our world today.

These patriots bestowed on us a heritage. A heritage of liberty and equality. A heritage of free and open government. A heritage nobly symbolized by our flag, a flag that has flown in defense of liberty from Yorktown to Normandy, from Inchon to Khe Sanh.

But our flag is more than a symbol of might. Our flag is a beacon of hope to the world and a reminder of the promise of America, the promise of freedom. The freedom to dream, and the freedom to reach as high as we can in pursuit of those dreams.

Every year fresh chapters are added to our story of liberty, chapters increasingly written by a new generation of Americans.

Recently I was visited by a group of young people from my home State of Kansas. One of them, Nancy Rogers, a high school student in Lebo, KS, has reflected on our heritage and very beautifully put her thoughts into the words of a poem.

Mr. President, in commemoration of America's Independence Day, I ask unanimous consent that her poem be printed in the RECORD.

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

OUR FLAG

The flag in our classroom
Lies limp and still,
As if sleeping so deeply
And dreaming of a hill;

A hill of freedom
Of happy and sad
Much of time lost,
Both good and bad.

The red is a color
For all the lives lost,
And the blood shed—
Freedom does cost!

The white is so quiet
It stands for peace,
For the love and laughter
Whene'er we meet.

Next is the blue
The full battlefield,
Of fifty white stars
Our sword and shield.

Once and still today
This flag so grand
Went into battle
Making a stand.

Now we pay homage
To a past not forgot,
To both men and boys
Who on the battlefield fought

For all of our colors
The RED, WHITE and BLUE
And so I pass on
America's heritage to you.

NANCY L. ROGERS,
Lebo, KS.

UPDATING THE AIDS EPIDEMIC

Mr. CRANSTON. Mr. President, according to the June 27, 1988, AIDS Weekly Surveillance Report 65,780 Americans have been diagnosed with AIDS; 37,195 Americans have died from AIDS; and 28,585 Americans are currently living with AIDS.

Mr. President, 1,274 more Americans have developed AIDS and 940 Americans have died from this horrible disease since I last noted these statistics from the June 6 Surveillance Report.

Mr. President, in my last statement, I discussed the recommendations of Adm. James D. Watkins, Chairman of the Presidential Commission on the HIV Epidemic. Two days ago, Admiral Watkins presented the final report, with most of his recommendations intact, to President Reagan. The President indicated that he would review the report and decide on a course of action within 30 days. I strongly encourage the President to follow the Commission's recommendations regarding antidiscrimination legislation, intravenous drug treatment, health services, education, and numerous others areas that are critical to bringing an end to this epidemic.

Mr. President, while we move forward with decisive action in this country, we must not lose sight that AIDS is a worldwide epidemic. It has impacted countries on every continent. I would like to take this opportunity to share with my colleagues an article from the June 28 New York Times. The article raises very difficult questions about how to treat AIDS in de-

veloping countries. In particular, how do we enable hundreds of thousands, even millions, of individuals who are infected with the HIV and who are living in Africa and elsewhere to gain access to new drugs and vaccines as they become available?

I ask unanimous consent that the article be inserted in the RECORD.

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

[From the New York Times, June 28, 1988]

POOR NATIONS PLAGUED WITH AIDS POSE HAUNTING ETHICAL QUESTIONS

(By Lawrence K. Altman, M.D.)

As medical researchers make slow progress toward developing drugs to treat AIDS and the diseases that strike its victims, experts are turning to the thorny question of when and how promising treatments should be distributed in poor countries of Africa and elsewhere where AIDS is spreading.

One drug, AZT, which has been shown to prolong life in some patients, is already being used to treat AIDS in the United States, Europe and developed countries elsewhere. However, many experts say its toxicity, which requires careful medical management, and its cost, up to $8,000 a year for many patients, limits its use in the third world.

Earlier this month in Stockholm at the Fourth International Conference on AIDS, some officials and other experts said discussions of the distribution issue had already begun. And next month, in the kind of step taken all too rarely in international health, a small group will meet in Boston to consider how to distribute drugs and vaccines for acquired immune deficiency syndrome to all who need them.

The need for an international approach to fighting and treating AIDS was expressed most succinctly in Stockholm by Dr. Halfdan Mahler, a Dane who is retiring as head of the World Health Organization. "AIDS cannot be stopped in any country unless it is stopped in all countries," Dr. Mahler said, adding that it would be discrimination to deny "the fruits of international science to all of the world's peoples" and to limit the benefits "only to the rich."

Most experts believe that administering a successful treatment for AIDS would, in many poor countries, cost more than the entire current health expenditures for all diseases. And many other diseases, like malaria, are leading killers in Africa.

In developing countries, said Prime Minister Ingvar Carlsson of Sweden, "many cannot even afford the precautions that the rich world takes for granted."

Although developed countries eliminated polio, measles, tetanus and other infections as major health problems many years ago, the diseases continue to be common in developing countries for lack of effective delivery systems and money.

Mr. Carlsson, speaking of past experience and looking optimistically toward the development of therapies and preventions for AIDS, said that "scientific knowledge has to be applied" and drugs and vaccines "have to be distributed to everywhere" regardless of ability to pay.

Pleas for extra financial aid came from African leaders. Ruhakano Rugunda, the Ugandan Minister of Transport and Communications, said that in battling AIDS "we must not divert the already limited resources currently directed against other common killer diseases."

Because health care systems in third world countries tend to be rudimentary at best, other experts talked about the problems of organizing delivery of an AIDS treatment or vaccine to people in such areas.

If an effective treatment does become available, millions of people may need to be tested for evidence of AIDS virus infection. For those found to be infected, a drug might prevent death from AIDS. But the same drug would not be needed and might be dangerous for those free of the virus. Conversely, a vaccine might be appropriate only for those who are not infected.

In performing the blood tests accuracy would be imperative. Who will teach the technicians how to do so many tests reliably? Who will pay for their training, and for the tests?

Since with rare exceptions drug companies have not donated their new drugs and vaccines to the third world, the burden or organizing AIDS treatment and prevention for these countries likely will fall on the World Health Organization.

Dr. Jonathan Mann, who heads the organization's global AIDS program, said in an interview that he and Dr. Harvey V. Fineberg, the dean of the Harvard School of Public Health, have scheduled a meeting in late July in Boston to discuss the topic. Dr. Mann described it as "a brainstorming session, a first effort to chart out the public health implications of the development of effective AIDS treatments and vaccines."

Scores of potential drugs and several types of possible vaccines are now under study to combat AIDS. No one can predict when any breakthroughs will occur. Nevertheless, Dr. Mann said, "we do not want to be caught by surprise or to lose 6 to 12 months" after a breakthrough.

The meeting in Boston will focus on the overall problem of delivering effective treatments and vaccines to all people, not on a specific compound, Dr. Mann said. But the agenda will include azidothymidine, AZT, the only drug licensed in the United States and elsewhere for treatment of AIDS.

Dr. Mann said it would be impractical to make AZT available to everyone in the world who needed it because it is a toxic drug that must be taken continuously.

AZT can impair bone marrow, causing severe anemia and other problems. People who take AZT need regular blood counts to determine if they have developed anemia and need blood transfusions.

Burroughs Wellcome of Research Triangle Park, N.C., sells the drug for the same price in the more than 50 countries where it is licensed, including nine in Africa, according to Kathy Bartlett, a spokesman for the company. Although not widely sold in Africa, studies are in progress in Kenya, Zaire and Zambia to determine whether the drug can be given less often but a higher doses to make it easier to administer in third world countries.

"The assumpton in the United States is that those on AZT will remain on it until they die or until something else comes along that is shown to be more effective," Dr. Mann said. "You have to be in a system that can assure lifetime commitments." Political instability, poverty and the frailty of medical institutions make that unrealistic in many countries.

ROBERT C. BYRD

Mr. CHILES. Mr. President, the conclusion of the 100th Congress is a notable benchmark in itself, but it will also end an era within the U.S. Senate as well. I am talking about the 22 years of service our colleague from West Virginia, ROBERT C. BYRD, has given as a leader of this body.

First he was secretary of the Democratic Conference, elected in 1967. He became majority whip in 1971, the year I arrived in the Senate, then was selected majority leader in 1977 to succeed retiring Senator MIKE MANSFIELD. Since then, of course, he was minority leader from 1981 through 1986 before returning to majority leader in 1987.

That 22 years spans a remarkable period of development and difficulty in our Nation. It encompassed the Vietnam conflict, the Watergate scandal, soaring accomplishments in space exploration, startling evolution in technology, dramatic changes—good and bad—in our society, and much, much more. And a changing Senate—more open and democratic, yet with greater independence on the part of the Members—has been challenged by the opportunities and relentless concerns.

Through it all Senator BYRD has applied a steady hand. He is rightly acclaimed for his mastery of the rules, his devotion to the duties and responsibilities at each leadership rank. He has been committed to making the process work while keeping tradition intact, and he deserves commendation for that.

But what says so much about ROBERT BYRD is that the Senate is as much in his heart as in his head. He clearly loves the Senate and has diligently pursued knowledge of its history and traditions. In sharing that knowledge, he has contributed to better understanding of the institution and benefited us all.

As a Member in my 18th year in the Senate, I have had the opportunity to witness Senator BYRD's growth in leadership, in communication, in efforts to balance the Senate's work against the demands on Senators' time and families.

So, in my final year in the Senate, I want to take this opportunity to thank the majority leader for his many contributions to the Senate and through it to the Nation and to express appreciation for his help and many courtesies over the years. He will no longer be majority leader after this year, thus closing an era in leadership posts, but his valuable counsel and service will continue.

THE HOOVER INSTITUTION AND ACADEMIC FREEDOM

Mr. WALLOP. Mr. President, a dozen years' experience in national se-

curity affairs have convinced me that the greatest damage to this country comes from the insufficient intellectual efforts and competence of those responsible for such things in this country. That includes bureaucrats, Members of Congress, often Presidents and even high Government officials. This goes so far as to be detached from reality, and affects both political parties. For example, at the beginning of June, the President of the United States declared that the man who runs the Soviet Union is his friend, while 2 weeks later the Democrat who is leading in the polls for the Presidency declared that the United States ought to prepare to fight and win a conventional war. Oh, how far the elementary standards of debate on public policy have fallen.

Again, long experience has taught me that among the leading causes of the lowering of standards of debate is inbreeding: the restricting of competition. This was certainly so in the U.S. intelligence community. The production of national intelligence estimates by a system that forced consensus and stifled dissent turned out estimates in the 1970's that were out of touch with reality. How the bureaucrats hated it when President Ford forced them to accept a team of dissenters among them. And how healthy for them and for the country.

But the deeper source of the low standards of today's national security debate is America's educational system. It is surely no coincidence that the lowering of standards of discussion has occurred at the same time as America's great universities have essentially closed their doors to anyone who does not share in the fads of the American political left.

I have in mind particularly the struggle now taking place at Stanford University over the future of the Hoover Institution. It is true, as Henry Kissinger reminds us, that academic politics are particularly vicious because the stakes are so small. But symbols are little things that stands for big ones. And even little things look big indeed when they stand out starkly aginst an otherwise uniform background.

The Hoover Institution on War, Revolution and Peace was established at Stanford by Herbert Hoover, a member of Stanford's first graduating class. Since 1960, the institution has been run by W. Glenn Campbell, who has built it into arguably the first center of scholarship in the world. Nobel Prizes, like SAT scores, and not advisable measures of work, but they give a rough idea. The entire Stanford faculty, numbering some 1,200 scholars, has a total of 6 Nobel Prize winners, while Hoover senior fellows, numbering fewer than 100, have 5 Nobel Prizes among them.

No one argues that Hoover scholars, man for man, are not at least on the level of the university faculty. Yet, for some years now, the dominant element at Stanford has sought to do away with the Hoover Institution's diversity. The charge against them, you see, is that it is conservative and hence, ipso facto, does not belong on campus. The Hoover Tower has been repeatedly defaced with leftist slogans. Windows have been broken. Faculty activists once gathered 87 signatures on a petition to detach the institution from the university. Never mind that 138 other members of the faculty—many from the "Land" sciences—signed another petition supporting the institution's academic freedom. The harassment has continued with the objective of subjecting the institution to what people call normal academic governance meaning control by the people who run the rest of the university.

Now let us be clear about who is who. This is not a case of Stanford academics, who have no views whatsoever on public affairs, but who object to having in their midst a set of Hoover scholars who are insufficiently so. Quite the contrary. A recent survey of token registration records show that the faculty of Stanford University's Humanities and Social Sciences contains only some 10 percent Republicans, whereas Hoover fellows are about evenly divided between Republicans and Democrats. The statistics understate reality. The few Republicans in the Stanford Humanities Department, for the most part, were hired decades ago, when American University faculties—and here I include my own alma mater, Yale—were not exclusively presences of the far left. Does anyone know of any conservatives or even Republicans hired by the history or political science, or English department at Stanford in recent years? No. The problem, quite starkly, is that the people who run Stanford are obviously not satisfied with a political balance that is overwhelmingly on their side. They want to purge the place completely.

About whom are we speaking? The chairman of Stanford's Board of Trustees, Warren Christopher, is someone remembered in Washington as Deputy Secretary of State in the last Democratic administration, and an obvious candidate for Secretary of State in the next such administration. Stanford's president is Donald Kennedy—President Jimmy Carter's Commissioner of the Federal Drug Administration. Under them, Jimmy Carter and Tip O'Neill have been as prominent at Stanford as have denunciations of the Hoover Institution's reported Reagan connection.

So, on May 17, Warren Christopher handed Glenn Campbell a letter informing him that Stanford wanted Campbell to retire as director of the Hoover Institution and that a search committee would be appointed to find a successor.

What is not going on here?

This is not a matter of putting tired horses out to pasture. Glenn Campbell is vigorous and effective—that's precisely why the university leaders want him out.

Nor is this a matter of blind enforcement of a retirement-at-65 policy for administrators, because the 7 Stanford trustees simultaneously hired top Administrator Richard Lyman for a job not so different from Campbell's. Lyman and Campbell are the same age.

Nor is this a matter of personalities. The former Deputy Secretary and perhaps the future Secretary of State, and the former Commissioner of the FDA and perhaps future Cabinet officer, are not going through the trouble to rid themselves of Glenn Campbell simply in order to have to deal with someone more pleasant, but just as foreign to their exclusive little subculture.

Nor is this mainly a matter of money. The Hoover Institution is worth about $325 million. That is a lot of money, but considerably less than what Stanford expects to gain from its current fundraising drive: $1 billion. On a national scale $325 million looks even smaller.

No; the Stanford trustees' attempt to get rid of Glenn Campbell is about intolerance for diversity. As Thomas Sowell has so perceptively said, it is another chapter in the closing of the American mind.

Perhaps the most unfortunate, the saddest aspect of modern American public life is the decline of the capacity—and of the inclination—to intellectual confrontation. In today's universities, and increasingly in public life, it is quite acceptable to foreclose debate by accusing people of new-age thinking, for example, racism, and by somehow removing them from positions whence they can exercise influence. When we were in college, we would laugh at those little sects of extremists who would splinter amidst changes of doctrinal impurity and who meanwhile remained ignorant of the real world. Today, we see our great universities increasingly in the grip of precisely such extremists. They have become the ruling clan of American universities, and by diversity, they understand only their own little quarrels: What special preferences Marxists and various kinds of various pressure groups and homosexuals ought to get. Who shall be first among revolutionaries. Surely, anyone who has followed the national controversy over Standford's western culture curriculum—and its echoes in the New York Times magazine—heard the educational establishment speak in the language of power, not of learn-

ing. Power, power, that is aggressively ignorant.

The Hoover Institution is out of step with this trend. Its scholars, whether economists or physicists or philosophers, historians, or political scientists, are people in the classical mold. Their agenda is set by no one. Surely, the very worst that can be said about Glenn Campbell is that he practices the most absolute version of academic freedom. Under Glenn Campbell, as in Rabeleis' mythical abbey, the rule is "do what you will." Because Campbell has chosen well, Hoover scholars are listened to around this country and the world. They are a challenge to more conventional wisdom. This, of course, is the rub. If Glenn Campbell is forced out, the rub will diminish. And the United States will be the loser.

That struggle may play itself out in courts and boardrooms. But it is important enough for all those involved in national policy to take note. First, because its outcome will affect the quality of national debate in future years. Second, because the perpetrators of this act of intolerance, this further act of closing of the American mind, may soon be coming before the Senate as nominees seeking confirmation. If and when that happens, they will have much explaining to do to an American people that is far more diverse than the in-bred community these people now represent.

SENATOR ROBERT C. BYRD, MAJORITY LEADER

Mr. PRYOR. Mr. President, it was 30 years ago that a young man from West Virginia came to Washington and began what has proved to be a distinguished career in the U.S. Senate. ROBERT C. BYRD, at the end of this Congress, will have served longer than any other Member of this body, except for only 27 in the last two centuries.

It is hard to imagine this body in the next Congress without Senator BYRD in the majority leader's position. Although my tenure here is short by comparison, I have long associated the post of majority leader with ROBERT BYRD, and I know this connection has been made by my colleagues as well.

The connection has also been an automatic fact-of-life in West Virginia, where Senator BYRD continues to carry all 55 counties. He is both their favorite son and the chief defender of a way of life that is fast disappearing from the American landscape—the self-made, determined student who sacrifices everything for an education and for service to the public.

ROBERT BYRD completed his law degree as a freshman Member of this body, graduating from American University in 1963, nearly 30 years after finishing high school. Surely no one else in this Chamber has had the ambition and the talent to complete such a rigorous course while, at the same time, serving fulltime in the Senate.

But that's the kind of energy and commitment ROBERT BYRD has always demonstrated. No one in this Chamber has ever worked harder, no one has stayed longer on the watch, no one has accomplished more in the long run, than ROBERT BYRD.

And no one has commanded a full understanding of the rules of the Senate more completely than ROBERT BYRD. Time and time again, I have seen the seasoned veteran look to Senator BYRD for advice on how to proceed, on the fine points of a rule of order, or on the shades of meaning in the parliamentary manual.

We shall all miss Senator BYRD's leadership, but the good news is that he will continue to represent the people of West Virginia and to lend us the considerable benefits of his experience and legislative acumen.

One final point, Mr. President: At a time when the business of Government has become prosaic and unconcerned with the healing gifts of language, I am encouraged to recognize in our leader the touch of a poet. ROBERT BYRD has never lost sight of the importance of poetry. He has spent countless hours reading it, memorizing it, and quoting it at exactly the right time.

I can only say that I look forward to our continuing service together in the Senate.

TRIBUTE TO ROBERT BYRD AS DEMOCRATIC FLOOR LEADER OF THE U.S. SENATE

Mr. STENNIS. Mr. President, for 22 years, Senator ROBERT BYRD has served in the leadership of the Senate and for 12 years he has been our Democratic floor leader. This past April 12, when he announced his decision not to seek the position of Senate Democratic leader for another term, ROBERT BYRD said:

> Always I have tried to reflect, through my leadership, fundamental American values—hard work, honesty, fairness, patriotism, freedom to dream and to do.

I believe every Senate colleague will agree that Senator BYRD has had great success in applying those fundamental values. Those are the qualities which have stood out during all his years of development. He uniformly reports to his place of duty and service well prepared and ready to proceed with vigor and effectiveness. However difficult a problem may be, ROBERT BYRD will stick to his principles and will do all that he can to see that justice and right prevail. I have never heard of any neglect sustained by the people and State of West Virginia. His people and his State always get first attention by Senator BYRD in his highly effective way.

I recall Senator ROBERT BYRD's early days in the U.S. Senate following his election to the Senate seat in 1958. He was seasoned by 6 years in the West Virginia State Legislature and 6 years in the U.S. House of Representatives. As I have recounted before on the Senate floor, I remember the first caucus he attended. As a veteran then of 10 years' service, I sensed a certain destiny of leadership in his manner. I picked him out then as a probable future floor leader. I saw him as a hard worker, who prepared himself daily on the issues to come before the committees on which he served and the bills taken up on the Senate floor. I encouraged him to make the utmost effort and he would possibly attain the position of Democratic floor leader, which was a position of growing strength and importance.

Senator BYRD has emerged as a true and trusted floor leader who has developed the finest knowledge of the Senate rules by anyone I know. He is very effective, indeed, in using and knowing how to apply those rules to carry out his purposes. In this endeavor, I actually believe he is the best I have ever seen, and we have had many excellent floor leaders here in my time. Today, he is the most knowledgeable Member in the Senate when it comes to handling complicated legislation of a grave and important nature. His use of the rules reflects his respect for the Senate and his thorough understanding of the Senate as an institution. He has a historical perspective. He has a vision for today and tomorrow. He has the ability and honor to merge perspective and vision into direction. And that is the core of leadership.

We have all had an opportunity to catch glimpses of Senator BYRD's remarkable character as we observe him performing his duties each day. Last fall, after Senator BYRD had responded, as is often his custom, to the Chaplain's opening prayer, one Senator expressed his reactions by saying "Now and then one is stopped in his tracks by the sincerity and eloquence of a colleague," as he called our attention to Senator BYRD's moving remarks. These daily reflections of Senator BYRD have had real meaning and solidify our valued friendships. I recall with genuine pleasure the splendid evening about a year ago when Senator and Mrs. Byrd were honored on their 50th wedding anniversary. With true fraternity, most of us shared in the joy of that occasion.

Mr. President, I want to express to Senator BYRD my affection, my high respect and admiration for his outstanding leadership, and my deep appreciation for his friendship. Godspeed in the coming months.

SENATOR ROBERT C. BYRD

Mr. McCONNELL. Mr. President, as we all know, the distinguished majority leader has announced his intention not to seek reelection to the post of Democratic floor leader when his term expires at the end of this session of Congress. I thought this would be a fitting opportunity to recognize his extraordinary list of accomplishments.

The people of West Virginia have overwhemingly placed their trust in Senator BYRD for over four decades. Few of my colleagues in this body can boast of such a lengthy career in public service. He held his first elected office in the State legislature's lower chamber in 1946 and quickly moved to the West Virginia Senate. After 2 years, he was elected to the U.S. House of Representatives before coming to this Chamber in 1959. Twelve years later he was elected majority whip and was unanimously chosen to keep that position for two subsequent Congresses before ascending to the office of Democratic leader in January 1977.

Senator BYRD's years of experience are illustrated by his mastery of parliamentary procedures. For that reason, his successor is going to have very big shoes to fill. Although his future endeavors are unlikely to provide him with the same experience he has had as his party's floor leader, I am sure that all of my colleagues join me in wishing him the best of luck.

TRIBUTE TO SENATOR ROBERT BYRD

Mr. SHELBY. Mr. President, I rise today to pay tribute to our distinguished majority leader, a man I have come to know well and greatly respect since my arrival in the Senate just 2 years ago.

ROBERT BYRD embodies all of the values that we hold dear in this country—dedication, commitment, hard work, and faith. These are the same values that helped to forge 13 colonies into a world superpower—they are what makes us uniquely "American."

In preparation for this tribute, I looked over Senator BYRD's biography—suggested reading for every freshman Senator. I noticed that there is one common thread that runs throughout every aspect of Senator BYRD's life—service. Service not to self, but rather to his family, community, State, and Nation.

Selfless service is the cornerstone of our Nation and it was the force behind the creation of the highest law in the land—the U.S. Constitution. As the celebration honoring the 200th anniversary of this living document continues, we can look to the 40 men who signed the Constitution to trace this legacy of service.

Consider just seven of the signers:

Ben Franklin, known as the "American Socrates," was the oldest member of the convention, but he was also an inventor, statesman, ambassador, Member of Congress, and a revered American.

Alexander Hamilton was George Washington's aid in war and peace. He was also a lawyer, author of the Federalist Papers and Secretary of the Treasury.

James Madison, known as the "Father of the Constitution," became the fourth President of the United States. He was also a Congressman, statesman, and contributing author of the Federalist Papers.

Gouverneur Morris was the composer of the Preamble of the Constitution, a lawyer, a Minister to France, and a U.S. Senator.

Charles Pinckney, the author of the Pinckney plan, was the Governor of South Carolina, a U.S. Senator, and Minister to Spain.

James Wilson, known as an advocate of the popular vote, was also a lawyer, a scholar, an associate justice, and a law professor.

George Washington was the commander-in-chief of the Continental Army, president of the Constitutional Convention, first President of the United States, statesman, and gentleman farmer.

The point to be made, I believe, is that the creation of the Constitution was not the only mark of service made by these men. Rather, each of these men have been recorded as giving a lifetime of distinguished service.

Henry Miller once said of service:

Render a service if you would succeed. This is the supreme law of life. Be among the great servers, the benefactors. It is the only path to success. "Give, and it shall be given to you." Make society your debtor and you may find your place among the immortals.

I salute you, Senator BYRD, in the tradition of the distinguished Americans who came before, you are truly a great server.

C. NORMAND POIRIER

Mr. PELL. Mr. President, I was deeply saddened to learn of the death, on Tuesday, June 28, of C. Normand Poirier, Acting General Counsel of the U.S. Information Agency.

Mr. Poirier was born in Woonsocket, RI, in 1927, and has maintained a residence there during his 30 years of service to the U.S. Government. Mr. Poirier graduated magna cum laude in 1950 from Assumption College, and received his J.D. degree in 1957 from Georgetown University School of Law. From 1958–66, he was chief counsel of the Navy's Polaris Missile Program. He subsequently joined the U.S. Arms Control and Disarmament Agency, where he served as assistant general counsel until 1970. He was deputy general counsel for the Commission on Government Procurement from 1970 to 1973, and served 1 year as associate general counsel for health care at the Cost of Living Council.

In 1974, Mr. Poirier joined USIA as an associate general counsel. He was named deputy general counsel in 1978, and USIA Director Charles Z. Wick appointed him acting general counsel on August 19, 1986.

Mr. Poirier had a distinguished career with USIA, representing the Agency in negotiations with foreign governments in connection with the Voice of America Modernization Program, working closely with this committee and other committees in the Congress to pass the Foreign Service Act of 1980, which reformed the personnel system of the Foreign Service, and representing USIA as an able witness and respected adviser in numerous appearances before the Congress.

Norm Poirier was also active in community affairs. He was elected to serve as president of the Federal Bar Association from 1971 to 1972. He served for several years on the board of directors of the Antioch School of Law, and was president of the Thomas Moore Society of America from 1979 to 1980. While at USIA, Mr. Poirier was awarded both the Agency's Meritorious Honor Award and the prestigious Presidential Rank Award in 1985.

Mr. Poirier exemplified the commitment, the energy, and the dedication of a truly outstanding public servant. He is survived by his wife of 30 years, Francoise, three daughters, and one son. I extend to them and to his colleagues at USIA my sincere condolences in this great loss.

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. FOWLER. Mr. President, I rise to give my thanks and commendation to our distinguished majority leader for his service to this Nation and this institution over the past 2 years.

The U.S. Senate is above all a place of tradition. And I cannot think of any better keeper of that tradition than ROBERT BYRD.

This body was intended by the framers of our Constitution as a kind of institutional memory for our Government, in which the issues before our Nation would receive the fullest debate and the closest scrutiny. That is why Senators were given longer terms than the Representatives in the House, and even longer than the President.

So the Senate watches administrations come and go and resists the fads, the whims, and the ideologies that may run rampant for a moment and then fade away.

That is because the framers knew that the best ideas would last, just as

their own thoughts have resonated so strongly over the span of two centuries.

The leader has been the institutional memory of the Senate itself—not just because he knows its rules, procedure, and history in great depth. Senator BYRD's mind is also a vast repository of our culture, of those treasures that have formed the American mind and the American spirit.

I have been amazed to see him break extemporaneously into a passage of poetry that opened new insights into the policies under discussion—and to quote at great length, stanza after stanza, from his head and from his heart.

We need that long memory—to recognize the cyclical moods of the country, to fit new debates into the context of history, and to recognize old truths when they circulate in new ideas.

Senator BYRD has served the Senate well as leader. And he will continue to set the example for dignity and personal integrity in his Senate service yet to come.

He is stepping down from his role as majority leader, representing the entire Democratic Party in the Senate. But in his representation of the State of West Virginia, I know that his thoughts continue to emerge as a force in national debate.

Because the Senate is also the body where State and regional interests are melded most clearly into the national consensus. Because of ROBERT BYRD, we all understand a great deal about West Virginia, its problems and its opportunities.

We have all listened to Senator BYRD's stories and gained a great understanding of what it was like to rise from poverty as it can only happen in this country. We all carry a vision of the beauty of the West Virginia mountains. We know of ROBERT BYRD's love of those mountains, and his pride in those mountain people. And we can all relate it to the love and the pride we carry in our hearts for our own home States.

If all 100 of us could project, in this Chamber, such a clear image of the places we represent, then I believe we as a collective body would be very successful, very successful in forging an image of this great country in its totality—recognizing all its greatness and grandeur, and its needs.

I wish I could give Senators from faraway places like Arizona and Wisconsin and Maine the same gut feeling for Georgia and its people that Senator BYRD has elicited for West Virginia.

So I commend him for his leadership. I know that same kind of Senate leadership will continue in his revised role. And I would like to offer my best wishes for his continued service to his State and to our Nation.

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. SIMPSON. Mr. President, later this year Senator ROBERT BYRD will conclude his distinguished service to the U.S. Senate as our majority leader. A number of my colleagues, from both sides of the aisle, have come to the floor to express their appreciation for his dedication to that most taxing and difficult task. Indeed, I have heard some very moving, honest, and sincere accolades expressed toward our majority leader in recent days.

Let me just say that it has been a distinct pleasure for me to be a part of the Senate leadership and to serve as the assistant majority leader to BOB DOLE, who is really one of the most remarkable and fair legislators I have seen. From my vantage point as Republican whip—and on occasion as acting Republican leader—I have also formed my own observations of my fine friend, the majority leader, the senior Senator from West Virginia.

The majority leader has been most cordial to me, most helpful, and most supportive. He has also been a counselor and a friend. He and BOB DOLE have both been superb in helping me in pursuance of my duties—which duties I have come to learn and thoroughly enjoy.

I do not know what judgment that history will make on the legislative activities of ROBERT BYRD. There will be much of his work to carefully sort through, both as a legislator and a leader. But I earnestly believe that a search of the records will reveal that certain words and phrases were repeatedly brought to the surface by this unique gentleman—something usually about the Senate "working its will." That is a phrase I have heard the majority leader use many, many times.

And, of course, that is the substance and essence and maybe even the mystery of this place—the need to move the public agenda. That is the role—the difficult, difficult role—of the majority leader. It is what he must do. In that process, we all learn how to compromise an issue without compromising ourselves. That is very important, learning how to take a crumb when we cannot get a loaf. Not to do that is to stall out the engine of the public's legislative machine.

Our majority leader has shared with me his good guidance and his good experience and also essence of good humor—and he has that, a rich degree of that. But what has been most impressive to me has been the sharing of his counsel and his willingness to help me get over a bit of a hump, to keep things rolling along, when to do otherwise—regardless of our personal feelings and motivations—is what is best for all the people of our good land. He has done that without hesitation or reservation.

There have been times when it would have been so very easy for the leader to take advantage of his position, to spring the trap on those of us in the minority—or even in those days when we were in the majority. But he did not do that. He did not like to abuse his authority. When I think back on some of the hot, emotional issues when so very much was at stake for all of us, I recall that my relationship with ROBERT BYRD was characterized by good, honest, open confrontation in the best spirit and tradition of the Senate. That is as it should be, and must be.

The majority leader shares my view, I believe, that we are here to legislate. That is our purpose. It is not partisanship alone, although that must be a factor in our system of government. But the common theme is legislating. We are not here to posture. We are not here to lecture. We are here to debate and legislate, and that is what the majority leader has spurred us to do.

Mr. President, a high point in my Senate career came just over 1 year ago on the occasion of the 50th wedding anniversary of Senator BYRD and Mrs. Byrd. There is really no way to properly describe the evening. Those of us who were there will list it as a most memorable event in the grand hall of the Library of Congress—surely one of the most magnificent buildings in Washington. In my time here, I have shared in and participated in many events on many occasions, but this one was one of the very most moving.

It was to have been a surprise party. But it is impossible to surprise the majority leader in any event, in any forum. He and his gracious wife Erma came down the grand staircase to join the waiting group of diners rendering a standing ovation to them in those beautiful surroundings. It was a very special time. Praise was shared and gifts presented.

If someone should ask me what the evening was about, I would tell them it was about a union, a remarkable union. I would tell them it was about sharing a life. I would tell them it was about modest beginnings—maybe less than that—and the pursuit of the American dream and how a young man ceased his work on a Friday evening and married his lady and went off to a square dance and then went back to work Monday morning.

I would tell them that evening was about working and striving and excelling and succeeding. It was about a warm and extraordinary gentlewoman, Erma Byrd, who, the more you visit with her and meet with her and come to know her, is just one remarkable lady of common sense, great good wisdom, and gentleness. The evening was about joy and some despair in a

life to be lived, because all that goes with it, too, and it touched also on life and death. Yet, really, it was mostly about grace and love and affection. It was very, very moving. Very potent and poignant and powerful. The chemistry of that spring evening will reside with me for my lifetime. I was honored to share it all right at the table with our leader and Erma.

That memory is but one that came to me as I began to reflect on ROBERT BYRD and the leadership of the Senate, in this last year of his time in that all-important role. He is a man I have come to greatly respect. We all do that. It comes with the territory. Just knowing him, you do come to a degree of awesome respect. That does not mean that we will not have some rich scraps. Oh, no, for he will like that, too. But it does mean that it is a relationship that has that kind of a base. When you have that kind of base, you can go through pain and anguish, yes, even bitterness and dislike—it all skips off the surface of that base. You cannot impregnate it.

Mr. President, it is my observation that our leader is an individual who pauses often to think about the important things in life, things like how to respond to our fellow humans who are in extremity and how to try to smooth off for them the sharp edges of their lives.

I shall not forget one thing the leader said the night of his anniversary party. I shall have to paraphrase, but you may be sure he said it exactly and correctly. What he said, in essence, was that mercy comes from kings, but grace comes from the heart, and it is not available to buy or sell or trade. It is worth pondering, in our life here in this body, where so much rests of the responsibility of our words and actions.

So now as our leader prepares for his new and challenging roles here in the U.S. Senate, we will all reflect on our relationship with him. And we may come to as many conclusions as we number. But I do know that all of them will focus as a single beam of truth on the inescapable fact that here is a man who has literally given his entire life to public service—a man who sets the ultimate standard for dedication to a system of government and an elected body within that government. Nobody could fail to come to know that about ROBERT BYRD.

So I join with the many others within this chamber, and outside it, in raising a stout right hand in toast and salute to a very unique, complex, dedicated and multi-talented individual. I offer my sincere thanks for his wisdom, my appreciation for his guidance, and my admiration for his service to this country, institution and his fellow man.

FAIR ELECTIONS VITAL FOR MEXICO AND THE U.S.

Mr. DECONCINI. Mr. President, I rise today to address the upcoming Presidential election in Mexico on July 6, 1988, and to stress the vital importance that free and fair elections would demonstrate to both Mexicans and Americans. The outcome and the electoral process are equally important in establishing a more open democratic system. On July 6 the Mexican people will go to the polls to exercise their right to select a new President for themselves and for their country. Mexico is a country at a critically important juncture in its history. It is a country in severe economic distress which faces a staggering foreign debt. It is a country experiencing limited economic growth. It is a country where reforms are desperately needed to reverse the conditions jeopardizing the well-being and security of its people. During this tumultuous time in Mexico, it is especially important that the Mexican people are guaranteed a means to improve their situation through free and fair elections.

Historically, the legitimacy of the Mexican Presidential election has been controversial. The PRI Party has never allowed a legitimate challenge. Mexico is a country where the voters often know who the next President will be months before the election. Mexico is a country where the percentage of the winning candidate is known months before the election. While this "certainty of succession" might diminish with the emergence of published polling results and 3 Presidential candidates on the ballot, a history of election fraud overshadows any signs of improvement. We saw the fraud and corruption in Chihuahua last year. The climate in Mexico is one that is calling for change, and one way of instigating change is by ensuring a genuine democratic electoral process.

I strongly believe that we must urge Mexico to take complete responsibility for assuring a democratic election process. It is not words that can guarantee democracy for the Mexican people but measures which illustrate a commitment to backing those words. A system of overseeing the accuracy and integrity of the electoral process should be established in Mexico. The Mexican Government should openly promote and implement checking procedures. It should create committees to oversee the election procedures consisting of a cross-section of people with diverse political views. This step could help ensure that electoral fraud is not the means by which Mexico's President is elected. While the infrastructure of the Mexican Government has remained stable since the Mexican Revolution, it will not continue to be unless the Government responds to the will of the people.

The will of the people is best demonstrated through their right to vote. I strongly encourage the Mexican Government to do everything in its power to help ensure fair and free elections. This is in Mexico's interest and United States' interests as well.

SUPREME COURT UPHOLDS INDEPENDENT COUNSEL LAW

Mr. LEVIN. Mr. President, today the U.S. Supreme Court handed down a long-awaited decision. By a vote of 7 to 1, the Court upheld the constitutionality of the independent counsel law.

The High Court's action is a great victory for our system of justice and for the independent prosecution of high level Government executives suspected of criminal wrongdoing.

It was more than 10 years ago that Congress began work on legislation to prevent a reoccurrence of the Watergate scandal, including the incident in which the President fired a special prosecutor hired by the Justice Department to investigate persons close to the President. In 1978, as part of the Ethics in Government Act, Congress first enacted the provisions allowing for the appointment of independent counsels to investigate and prosecute persons close to the President who are suspected of criminal wrongdoing. In 1983, Congress reauthorized the independent counsel law with a number of important improvements to resolve constitutional concerns. Just last year, Congress again reauthorized the law, again with key improvements. On each occasion, the legislation was the product of bipartisan effort and enjoyed widespread support. Today, Congress' hard work and constant attention to constitutional questions paid off. The Supreme Court upheld every important aspect of this carefully crafted statute.

The validation of the independent counsel law means that the lesson of Watergate—the need for independent criminal investigations and prosecutions of persons close to the President—has been learned and has become an accepted part of American jurisprudence. It means that investigations and prosecutions of high level executive branch officials will be able to proceed with the measure of independence that will ensure public confidence in our criminal justice system.

The validation of the law is also a validation of Congress, demonstrating how the legislature can work within the confines of the Constitution to provide solutions to difficult problems. Democrats and Republicans worked together to produce the independent counsel law. I want to commend in particular my colleague from Maine, Senator COHEN, who has worked on this statute from its inception and has shown such leadership on it within the

Senate. I am proud to have worked side by side with him on a bipartisan basis to reach this successful conclusion to Congress' efforts.

Finally, today's opinion shows that the opposition of the current Justice Department to the independent counsel statute was short-sighted and ill-advised. The arguments of the Justice Department were resoundingly rejected by the Supreme Court, and they have been laid to rest.

I ask unanimous consent to have printed in the RECORD a copy of the syllabus from the Supreme Court summarizing its decision to uphold the independent counsel statute. Due to its length, I will not ask the full text of the opinion to be reprinted here. At the same time, because the opinion is instructive on a host of constitutional issues, I urge my colleagues to take the time to review it in its entirety.

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

SUPREME COURT OF THE UNITED STATES

[Syllabus]

MORRISON, INDEPENDENT COUNSEL v. OLSON ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 87-1279. Argued April 26, 1988—Decided June 29, 1988

The case presents the question of the constitutionality of the independent counsel provisions of the Ethics in Government Act of 1978 (Act). It arose when the House Judiciary Committee began an investigation into the Justice Department's role in a controversy between the House and the Environmental Protection Agency (EPA) with regard to the Agency's limited production of certain documents that had been subpoenaed during an earlier House Investigation. The Judiciary Committee's Report suggested that an official of the Attorney General's Office (appellee Olson) had given false testimony during the earlier EPA investigation, and that two other officials of that Office (appellees Schmults and Dinkins) had obstructed the EPA investigation by wrongfully withholding certain documents. A copy of the Report was forwarded to the Attorney General with a request, pursuant to the Act, that he seek appointment of an independent counsel to investigate the allegations against appellees. Ultimately, pursuant to the Act's provisions, the Special Division (a special court created by the Act) appointed appellant as independent counsel with respect to Olson only, and gave her jurisdiction to investigate whether Olson's testimony, or any other matter related thereto, violated federal law, and to prosecute any violations. When a dispute arose between independent counsel and the Attorney General, who refused to furnish as "related matters" the Judiciary Committee's allegations against Schmults and Dinkins, the special Division ruled that its grant of jurisdiction to counsel was broad enough to permit inquiry into whether Olson had conspired with others, including Schmults and Dinkins, to obstruct the EPA investigation. Appellant then caused a grand jury to issue subpoenas on appellees, who moved in Federal District Court to quash the subpoenas, claiming that the Act's independent counsel provisions were unconstitutional and that appellant accordingly had no authority to proceed. The court upheld the Act's constitutionality, denied the motions, and later ordered that appellees be held in contempt for continuing to refuse to comply with the subpoenas. The Court of Appeals reversed, holding that the Act violated the Appointments Clause of the Constitution, ARt. II, § 2, cl. 2; the limitations of Article III; and the principle of separation of powers by interfering with the President's authority under Article II.

Held:

1. There is no merit to appellant's contention—based on *Blair* v. *United States,* 250 U.S. 273, which limited the issues that may be raised by a person who has been held in contempt for failure to comply with a grand jury subpoena—that the constitutional issues addressed by the Court of Appeals cannot be raised on this appeal from the District Court's contempt judgment. The Court of Appeals ruled that, because appellant had failed to object to the District Court's consideration of the merits of appellees' constitutional claims, she had waived her opportunity to contend on appeal that *Blair* barred review of those claims. Appellant's contention is not " jurisdictional" in the sense that it cannot be waived by failure to raise it at the proper time and place. Nor is it the sort of claim which would defeat jurisdiction in the District Court by showing that an Article III "Case or Controversy" is lacking. Pp. 10-11.

2. It does not violate the Appointments Clause for Congress to vest the appointment of independent counsel in the Special Division. Pp. 11-18.

(a) Appellant is an "inferior" officer for purposes of the Clause, which—after providing for the appointment of certain federal officials ("principal" officers) by the President with the Senate's advice and consent—states that "the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." Although appellant may not be "subordinate" to the Attorney General (and the President) insofar as, under the Act, she possesses a degree of independent discretion to exercise the powers delegated to her, the fact that the Act authorizes her removal by the Attorney General indicates that she is to some degree "inferior" in rank and authority. Moreover, appellant is empowered by the Act to perform only certain, limited duties, restricted primarily to investigation and, if appropriate, prosecution for certain federal crimes. In addition, appellant's office is limited in jurisdiction to that which has been granted by the Special Division pursuant to a request by the Attorney General. Also, appellant's office is "temporary" in the sense that an independent counsel is appointed essentially to accomplish a single task, and when that task is over the office is terminated, either by counsel herself or by action of the Special Division. Pp. 11-14.

(b) There is no merit to appellees' argument that, even if appellant is an "inferior" officer, the Clause does not empower Congress to place the power to appoint such an officer outside the Executive Branch—that is, to make "interbranch appointments." The Clause's language as to "inferior" officers admits of no limitation on interbranch appointments, but instead seems clearly to give Congress significant discretion to determine whether it is "proper" to vest the appointment of, for example, executive officials in the "courts of Law." The Clause's history provides no support for appellees' position. Moreover, Congress was concerned when it created the office of independent counsel with the conflicts of interest that could arise in situations when the Executive Branch is called upon to investigate its own high-ranking officers, and the most logical place to put the appointing authority was in the Judicial Branch. In light of the Act's provision making the judges of the Special Division ineligible to participate in any matters relating to an independent counsel they have appointed, appointment of independent counsels by that court does not run afoul of the constitutional limitation on "incongruous" interbranch appointments. Pp. 14-18.

3. The powers vested in the Special Division do not violate Article III, under which executive or administrative duties of a nonjudicial nature may not be imposed on judges holding office under Article III. Pp. 18-26.

(a) There can be no Article III objection to the Special Division's exercise of the power, under the Act, to appoint independent counsel, since the power itself derives from the Appointments Clause, a source of authority for judicial action that is independent of Article III. Moreover, the Division's Appointments Clause powers encompass the power to define the independent counsel's jurisdiction. When, as here, Congress creates a temporary "office," the nature and duties of which will by necessity vary with the factual circumstances giving rise to the need for an appointment in the first place, it may vest the power to define that office's scope in the court as an incident to the appointment of the officer pursuant to the Appointments Clause. However, the jurisdiction that the court decides upon must be demonstrably related to the factual circumstances that gave rise to the Attorney General's request for the appointment of independent counsel in the particular case. P. 20-21.

(b) Article III does not absolutely prevent Congress from vesting certain miscellaneous powers in the Special Division under the Act. One purpose of the broad prohibition upon the courts' exercise of executive or administrative duties of a nonjudicial nature is to maintain the separation between the Judiciary and the other branches of the Federal Government by ensuring that judges do not encroach upon executive or legislative authority or undertake tasks that are more properly accomplished by those branches. Here, the Division's miscellaneous powers—such as the passive powers to "receive" (but not to act on or specifically approve) various reports from independent counsel or the Attorney General—do not encroach upon the Executive Branch's authority. The Act simply does not give the Division power to "supervise" the independent counsel in the exercise of counsel's investigative or prosecutorial authority. And, the functions that the Division is empowered to perform are not inherently "Executive," but are directly analogous to functions that federal judges perform in other contexts. Pp. 21-22.

(c) The Special Division's power to terminate an independent counsel's office when counsel's task is completed—although "administrative" to the extent that it requires the Division to monitor the progress of counsel's proceedings and to decide whether counsel's job is "completed"—is not such a significant judicial encroachment upon executive power or upon independent counsel's prosecutorial discretion as to require

that the Act be invalidated as inconsistent with Article III. The Act's termination provisions do not give the Division anything approaching the power to *remove* the counsel while an investigation or court proceeding is still underway—this power is vested solely in the Attorney General. Pp. 23–24.

(d) Nor does the Special Division's exercise of the various powers specifically granted to it pose any threat to the impartial and independent federal adjudication of claims within the judicial power of the United States. The Act gives the Division itself no power to review any of the independent counsel's actions or any of the Attorney General's actions with regard to the counsel. Accordingly, there is no risk of partisan or biased adjudication of claims regarding the independent counsel by that court. Moreover, the Act prevents the Division's members from participating in "any judicial proceeding concerning a matter which involves such independent counsel while such independent counsel is serving in that office or which involves the exercise of such independent counsel's official duties, regardless of whether such independent counsel is still serving in that office." Pp. 24–26.

4. The Act does not violate separation of powers principles by impermissibly interfering with the functions of the Executive Branch. Pp. 26–37.

(a) The Act's provision restricting the Attorney General's power to remove the independent counsel to only those instances in which he clan show "good cause," taken by itself, does not impermissibly interfere with the President's exercise of his constitutionally appointed functions. Here, Congress has not attempted to gain a role in the removal of executive officials other than its established powers of impeachment and conviction. The Act instead puts the removal power squarely in the hands of the Executive Branch. *Bowsher* v. *Synar*, 478 U.S. 714; and *Myers* v. *United States*, 272 U.S. 52, distinguished. The determination of whether the Constitution allows Congress to impose a "good cause"-type restriction on the President's power to remove an official does not turn on whether or not that official is classified as "purely executive." The analysis contained in this Court's removal cases is designed not to define rigid categories of those officials who may or may not be removed at will by the President, but to ensure that Congress does not interfere with the President's exercise of the "executive power" and his constitutionally appointed duty to "take care that the laws be faithfully executed" under Article II. Cf. *Humphrey's Executor* v. *United States*, 295 U.S. 602; *Wiener* v. *United States*, 357 U.S. 349. Here, the Act's imposition of a "good cause" standard for removal by itself does not unduly trammel on executive authority. The congressional determination to limit the Attorney General's removal power was essential, in Congress' view, to establish the necessary independence of the office of independent counsel. Pp. 27–34.

(b) The Act, taken as a whole, does not violate the principle of separation of powers by unduly interfering with the Executive Branch's role. This case does not involve an attempt by Congress to increase its own powers at the expense of the Executive Branch. The Act does empower certain Members of Congress to request the Attorney General to apply for the appointment of an independent counsel, but the Attorney General has no duty to comply with the request, although he must respond within a certain time limit. Other than that, Congress' role under the Act is limited to receiving reports or other information and to oversight of the independent counsel's activities, functions that have been recognized generally as being incidental to the legislative function of Congress. Similarly, the Act does not work any judicial usurpation of properly executive functions. Nor does the Act impermissibly undermine the powers of the Executive Branch, or disrupt the proper balance between the coordinate branches by preventing the Executive Branch from accomplishing its constitutionally assigned functions. Even though counsel is to some degree "independent" and free from Executive Branch supervision to a greater extent than other federal prosecutors, the Act gives the Executive Branch sufficient control over the independent counsel to ensure that the President is able to perform his constitutionally assigned duties. Pp. 34–37.

—— U.S. App. D.C. ——, 838 F.2d 476, reversed.

REHNQUIST, C.J., delivered the opinion of the Court, in which BRENNAN, WHITE, MARSHALL, BLACKMUN, STEVENS, and O'CONNOR, JJ., joined. SCALIA, J., filed a dissenting opinion. KENNEDY, J., took no part in the consideration or decision of the case.

TRIBUTE TO THE MAJORITY LEADER, SENATOR ROBERT BYRD OF WEST VIRGINIA

Mr. GORE. Mr. President, I want to join my colleagues in thanking the majority leader for his many years of distinguished service to the Senate and the country. I know that the senior Senator from West Virginia will go on to make as great a contribution to this body as chairman of the Appropriations Committee as he has done in the offices of minority and majority leader.

In the 3 years since I came to the Senate, I have developed great respect for Senator BYRD's legislative talents. As a member of the Rules Committee, I had an opportunity to work closely with him in opening the doors of the Senate to television. I had taken part in a similar experiment in the House of Representatives, and I was pleased to discover that Senator BYRD shared the conviction that the time had come to move the Senate forward into the television age.

At first, some Members of the Senate had doubts. But the majority leader patiently rallied support for the idea and quietly persevered. In March 1986, the Senate voted to give the idea a chance. I trust that most Senators would now agree that the television experiment has been a great success. Senator BYRD deserves credit for his foresight and hard work.

The majority leader has shown great concern for the traditions of the Senate, and for its future. We have accomplished a great deal under his leadership. He has been fair to the interests of the minority, while helping Democrats return to the majority. Today, our party is in a position not only to retain control of the Senate, but to take back the White House.

Senator BYRD has earned our gratitude for his endless patience, his attention to detail, and his innovative leadership. Members on both sides of the aisle will agree that he always put the best interests of the Senate foremost in his heart. I know that I speak for every Senator in thanking the majority leader for his lasting contributions, and in wishing him well in years to come. He is a great man, a Senators' Senator, a majority leader who will go down in history as one of our best, if not the best, and a friend who will continue serving with us.

SUPREME COURT UPHOLDS INDEPENDENT COUNSEL LAW

Mr. BYRD. Mr. President, the U.S. Supreme Court today upheld the provisions of the Ethics in Government Act which authorize the appointment of independent counsels to investigate and prosecute high-level Government officials.

This decision is of great importance to the Congress in our efforts to insure the honesty and integrity of those who work for the people.

Critics of the Ethics in Government Act had argued that the appointment of independent counsels by the courts violates the principle of separation of powers, because the President cannot completely control the prosecutorial powers of the counsel. Today's decision confirms the commonsense conclusion to the contrary—that the appointment of independent counsels promotes the separation of powers. Those of us who lived through the Watergate experience know first hand that the executive branch cannot always be expected to investigate and prosecute itself. We should never forget that the country was sent into a crisis of historic dimensions when the President fired an attorney general who was trying to maintain an independent probe of executive misconduct. The Ethics in Government Act was enacted as a consequence of this incident, and the law provides a method to insulate an investigator from pressure exerted by those being investigated.

Today's decision removes a cloud from current and future investigations and prosecutions. It also removes a possible impediment to legislation to tighten the restrictions on lobbying activities by those who leave Government employment.

I am pleased that the Supreme Court has found that the Congress was acting within its authority by providing for truly independent review of alleged impropriety by Government officials.

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes, with an amendment; it insists upon its amendment to the said bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. SHARP, Mr. BRUCE, Mr. LENT, and Mr. MOORHEAD as managers of the conference on the part of the House.

At 2:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4639) to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students Program under part B of title IV of the Higher Education Act of 1965, and for other purposes.

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

H.R. 4794. An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989 and for other purposes.

The message further announced that pursuant to the provisions of section 491 of the Higher Education Act of 1965, as amended by section 407 of Public Law 99-498, the Speaker reappoints the following member on the part of the House from private life, to the Advisory Committee on Student Financial Assistance: Mr. Joseph L. McCormick of Austin, TX.

The message also announced that pursuant to the provisions of Senate Concurrent Resolution 105 of the 100th Congress, the Speaker appoints to the Joint Congressional Committee on Inaugural Ceremonies the following Members on the part of the House: Mr. WRIGHT, Mr. FOLEY, and Mr. MICHEL.

At 4:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1382) to amend the National Energy Conservation Policy Act to improve the Federal Energy Management Program, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 2203) to extend the expiration date of title II of the Energy Policy and Conservation Act; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4867. An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4794. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

H.R. 4867. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The Committe on the Judiciary was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 473. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3477. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a semiannual report on the activities of the Office of the Inspector General for the period October 1, 1987, through March 31, 1988; to the Committee on Governmental Affairs.

EC-3478. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General for the period ending March 31, 1988; to the Committee on Governmental Affairs.

EC-3479. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the semiannual report on audit, inspection, and investigative operations for the 6-month period ending March 31, 1988; to the Committee on Governmental Affairs.

EC-3480. A communication from the Director of the Office on Personnel Management, transmitting, pursuant to law, the annual report on drug and alcohol abuse prevention, treatment and rehabilitation programs and services for Federal civilian employees; to the Committee on Governmental Affairs.

EC-3481. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the fifth biennial report on excess and surplus personal property programs for the 2-year period from October 17, 1985, through October 16, 1987; to the Committee on Governmental Affairs.

EC-3482. A communication from the Records Officer of the U.S. Postal Service, transmitting, pursuant to law, notice of a computer matching program between the Postal Service and the State of Utah; to the Committee on Governmental Affairs.

EC-3483. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-189 adopted by the council on May 31, 1988; to the Committee on Governmental Affairs.

EC-3484. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-188 adopted by the council on May 31, 1988; to the Committee on Governmental Affairs.

EC-3485. A communication from the Chairman of the U.S. Systems Protection Board, transmitting, pursuant to law, the ninth annual report of the Board covering the activities for the fiscal year 1987; to the Committee on Governmental Affairs.

EC-3486. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the inspector general for the period covering October 1, 1987, through March 31, 1988; to the Committee on Governmental Affairs.

EC-3487. A communication from the Records Officer of the U.S. Postal Service, transmitting, pursuant to law, notice of a computer matching program between the Postal Service and the city of New York; to the Committee on Governmental Affairs.

EC-3488. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-190 adopted by the council on May 31, 1988; to the Committee on Governmental Affairs.

EC-3489. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Implementation of the Child Abuse Amendments of 1984 Relating to Disabled Infants with Life-threatening Conditions"; to the Committee on Labor and Human Resources.

EC-3490. A communication from the Administrator of the Environmental Protection Agency; transmitting, pursuant to law, the annual report of the Asbestos School Hazard Abatement Act for 1986 and 1987; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 2068. A bill to amend the Marine Protection, Research and Sanctuaries Act to protect marine and near shore coastal waters through establishment of regional marine research centers (Rept. No. 100-406).

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2595. An original bill to authorize appropriations for fiscal year 1989 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service (Rept. No. 100-407).

● Mr. BENTSEN. Mr. President, I rise today on behalf of the Committee on Finance, which has reported an original bill providing fiscal year 1989 authorizations of appropriations for three international trade agencies—the U.S. Customs Service, the Office

of the U.S. Trade Representative [USTR], and the U.S. International Trade Commission [ITC]. With regard to the latter two agencies, the committee has recommended authorization of the amount contained in each agency's budget request, almost $15.4 million for the USTR and $37 million for the ITC. These amounts should be sufficient to allow each to carry out its important responsibilities over trade.

Since the Senate is now debating the Treasury appropriations bill, I think it is appropriate to devote most of my remarks to the committee's budget authorization for the Customs Service. The committee's bill authorizes nearly $1.19 billion for Customs. This is $79 million above what the President's budget requested.

The reason for the additional funding is simple. After considering the testimony submitted to it, the Committee on Finance concluded that attempting to maintain Customs at roughly the budget level of fiscal year 1988, as the President's budget requested, was insufficient. The Customs Service is responsible both for facilitating a growing amount of legitimate trade and for policing our border to interdict illicit drugs and curb abuses of commercial trade. It enforces some 400 regulatory laws on behalf of 40 other Federal agencies. The amount of goods it processes has increased each year of this decade, while we in the Congress have handed it a major part of the task of stopping drugs.

Plainly put, the Customs Service needs to grow. The Finance Committee, as has the Appropriations Committee, has recommended addition of 700 new Customs personnel. These people are sorely needed to shore up commercial operations at our Nation's ports. They will give Customs the resources and flexibility to place its inspectors, import specialists, and other trained personnel where they are most needed.

We should not forget, also, that the Customs Service is a revenue-raising agency. It is estimated to return at present $17 for each dollar appropriated to it, plus $3 at the margin for each additional dollar appropriated.

The authorization bill also contains a small provision that the Senate should consider carefully. It provides authorization of $1.6 million to pay U.S. dues to the Customs Cooperation Council [CCC], the international body that drafted the Harmonized Tariff System and works to bring consistency into the customs procedures of its member countries. The United States is in arrears to the CCC by that amount, and failure to bring its account up to date threatens to damage the international prestige of the United States and weaken its ability to act effectively within that organization.

It proved to be very timely to bring this authorization bill to the Senate's attention at the present time. I strongly urge the Members to consider the report of the Finance Committee as it acts on the Treasury appropriation.●

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1544. A bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes (Rept. No. 100-408).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1081. A bill to establish a coordinated National Nutrition Monitoring and Related Research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan (Rept. No. 100-409).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2153. A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Frederick K. Goodwin, of Maryland, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 2587. A bill to provide for the control of noxious weeds on Federal lands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HECHT (for himself, Mr. SYMMS, and Mr. GRAMM):

S. 2588. A bill to suspend the Panama Canal Treaties until such time as Gen. Manuel Noriega and his associates similarly involved in the drug trafficking relinquish political or military control over Panama; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. 2589. A bill to amend the Internal Revenue Code to restore the deduction for capital gains of individuals, to ensure that the rate of tax on long-term capital gains of individuals does not exceed 21 percent, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BOSCHWITZ, Mr. STEVENS, Mr. WEICKER, Mr. THURMOND, Mr. HATCH, Mr. GARN, Mr. GRAMM, Mr. COCHRAN, Mr. MCCLURE, Mr. TRIBLE, Mr. QUAYLE, Mr. WILSON, Mr. DOMENICI, Mr. MURKOWSKI, Mr. SYMMS, Mr. WALLOP, Mr. KARNES, Mr. HUMPHREY, Mr. NICKLES, Mr. HECHT, Mr. RUDMAN, Mr. ARMSTRONG, and Mr. GRASSLEY):

S. 2590. A bill to amend the Federal Election Campaign Act of 1971 to repeal public financing and spending limits in Presidential elections, prohibit contributions to Presidential candidates by multicandidate political committees, require disclosure of attempts to influence Presidential elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of Presidential campaigns; to the Committee on Finance.

By Mr. BAUCUS:

S. 2591. A bill to amend the Agricultural Act of 1949 to provide drought relief to agricultural producers by requiring that deficiency payments paid to producers for the 1988 crop year in counties declared disaster areas be based on 92 percent of the projected payment rate, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 2592. A bill to require the Secretary of Health and Human Services to develop and implement specific criteria for determining the eligibility of individuals with symptomatic human immunodeficiency virus infection for disability-related benefits under titles II and XVI of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2593. A bill for the relief of Taras Eugene Bileski and Rina Bileski; to the Committee on the Judiciary.

By Mr. DANFORTH:

S. 2594. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who pay the costs of employee assistance programs; to the Committee on Finance.

By Mr. BENTSEN from the Committee on Finance:

S. 2595. An original bill to authorize appropriations for fiscal year 1989 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service; placed on the calendar.

By Mr. HEINZ:

S. 2596. A bill to extend the period in which a certain certification under subchapter A of chapter 2 of title II of the Trade Act of 1974 is in effect; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. BURDICK, Mr. GRASSLEY, Mr. DURENBERGER, Mr. SHELBY, Mr. WIRTH, Mr. ROCKEFELLER, Mr. GORE, Mr. COCHRAN, Mr. BAUCUS, Mr. EXON, Mr. CONRAD, Mr. SIMON, and Mr. KASTEN):

S. 2597. A bill to establish an interdisciplinary training grant program for the benefit of rural areas; to the Committee on Labor and Human Resources.

By Mr. KASTEN (for himself, Mr. LAUTENBERG, Mr. STEVENS, and Mr. REID):

S. 2598. A bill to ensure that waste exported from the United States to foreign countries is managed in a manner so as to protect human health and the environment; to the Committee on Environment and Public Works.

By Mr. GORE (for himself and Mr. D'AMATO):

S. 2599. A bill to require the Consumer Product Safety Commission to complete rulemaking proceedings regarding all-terrain vehicles in order to promote the safety of consumers; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 2600. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. DECONCINI, Mr. KENNEDY, and Mr. SPECTER):

S. 2601. A bill to amend section 371 of title 28, United States Code, to allow a Federal judge who is at least 60 years of age and has completed 20 years of service to retire from regular active service; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 2602. A bill to establish the Regional Marine Research Trust Fund, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MELCHER (for himself, Mr. BURDICK, Mr. HEFLIN, Mr. BOREN, Mr. DASCHLE, Mr. EXON, Mr. CONRAD, Mr. LEVIN, Mr. HARKIN, Mr. METZENBAUM, Mr. SANFORD, Mr. BREAUX, Mr. BAUCUS, Mr. MOYNIHAN, Mr. SARBANES, Mr. FOWLER, Mr. DIXON, Mr. SIMON, and Mr. JOHNSTON):

S. 2603. A bill to amend the Agricultural Act of 1949 to provide drought relief, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 2604. A bill to authorize the conveyance of the vessel, Lane Victory; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. SIMPSON, and Mr. SIMON):

S. 2605. A bill to amend the Immigration and Nationality to extend for 3 years the authorization of appropriations for refugee assistance, and for other purposes; to the Committee on the Judiciary.

By Mr. HEFLIN:

S. 2606. A bill entitled the "Agricultural Drought Relief Act of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GLENN:

S. 2607. A bill to reauthorize appropriations and modify administrative organization and activities of the Interagency Council on the Homeless, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SYMMS:

S. 2608. A bill to repeal the requirement that taxpayers include on an income return a tax identification number for claimed dependents who have attained the age of 5 years; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. BOREN, Mr. DURENBERGER, Mr. BOND, Mr. BAUCUS, Mr. KARNES, Mr. RIEGLE, Mr. HEINZ, Mr. WALLOP, Mr. BURDICK, Mr. DASCHLE, Mr. KASTEN, Mr. QUAYLE, Mr. PRYOR, Mrs. KASSEBAUM, Mr. SYMMS, Mr. MCCLURE, Mr. PRESSLER, Mr. WARNER, and Mr. MCCONNELL):

S. 2609. A bill to amend the Internal Revenue Code of 1986 to provide that the special rule for proceeds from livestock sold on account of drought apply to livestock used for draft, breeding, dairy or sporting purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself and Mr. DURENBERGER):

S. 2610. A bill to amend the Safe Drinking Water Act to control lead in drinking water; to the Committee on Environment and Public Works.

By Mr. TRIBLE (for himself, Mr. WARNER, Mr. BUMPERS, Mr. BURDICK, Mr. BYRD, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SHELBY, Mr. SIMON, Mr. STAFFORD, Mr. STENNIS, Mr. THURMOND, and Mr. WILSON):

S.J. Res. 345. A joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled"; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S. J. Res. 346. A joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. SIMPSON, and Mr. HATFIELD):

S.J. Res. 347. A joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. BUMPERS (for himself, Mr. PRYOR, Mr. FORD, Mr. STEVENS, Mr. ADAMS, Mr. BOND, Mr. BAUCUS, Mr. WEICKER, Mr. NUNN, Mr. SIMON, Mr. CHILES, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. DOLE, Mr. GORE, Mr. DOMENICI, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. EVANS, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. WIRTH, Mr. HEFLIN, Mr. THURMOND, Mr. DECONCINI, Mr. BINGAMAN, Mr. GARN, and Ms. MIKULSKI):)

S. Res. 447. Resolution commending J. Lewey Caraway on the occasion of his retirement; considered and agreed to.

By Mr. COHEN (for Mr. STEVENS (for himself and Mr. MURKOWSKI)):

S. Res. 448. Resolution to honor the Most Reverend Francis T. Hurley, Archbishop of Anchorage, for his contributions to the City of Anchorage, the State of Alaska, and his fellow man and to recognize him for being named as Alaska's first recipient of the Torch of Liberty Award; considered and agreed to.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 449. Resolution to authorize testimony of a former Senate employee and representation by the Senate Legal Counsel in the case of United States v. Burnley, et al; considered and agreed to.

By Mr. PELL (for himself, Mr. HELMS, Mr. CRANSTON, and Mr. MURKOWSKI):

S. Con. Res. 129. Concurrent resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet; to the Committee on Foreign Relations.

By Mr. BYRD:

S. Con. Res. 130. Concurrent resolution providing for a conditional adjournment of the House from June 30, 1988, until July 6, 1988, and a conditional recess or adjournment of the Senate from June 29, 1988, until July 6, 1988; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 2587. A bill to provide for the control of noxious weeds on Federal lands; to the Committee on Agriculture, Nutrition, and Forestry.

NOXIOUS WEED CONTROL ACT

● Mr. MELCHER. Mr. President, noxious weeds, such as leafy spurge and spotted knapweed, have reached epidemic proportions in some areas of the West, particularly in Montana, Idaho, Utah, North Dakota, and northeastern Wyoming. Nearly 7.5 million acres of Federal land in the West are seriously affected by noxious weeds, and their rapid spread constitutes an emergency situation.

It is well documented that many of these noxious weed species have extensive and costly impacts on human health, safety, commerce, recreation, and general well-being. Noxious weeds create a management problem that adversely affects forage production, wilderness, wildlife habitat, visual quality, reforestation, recreational opportunities, and land values.

As the spread of noxious weeds becomes alarming, many public land permittees, private landowners, and State legislators are expressing serious concerns. Their concerns are based on two facts. First, Federal lands are a major seed source of noxious weeds that are infecting private lands. Second, there is not enough consolidated Federal effort being directed to the control and management of noxious weeds on Federal lands.

There is no doubt that noxious weeds are a major problem on Federal lands, particularly lands managed by the Forest Service and the Bureau of Land Management. The current role of Federal land management agencies in noxious weed management is one of cooperating with State, county, and Federal agencies in the planning and the implementation of noxious weed management plans on Federal lands. Cooperation with State and local au-

thorities by the Forest Service and the Bureau of Land Management has been good and is steadily increasing. These agencies do most of the weed control on Federal lands directly but in some cases, they contract with county weed control districts. Control priority is given to areawide cooperative efforts that involve all landowners in a logical control area.

In the State of Montana alone, an estimated 4.6 million acres are infested with noxious weeds, of which slightly more than 500,000 acres are lands managed by the Forest Service and the Bureau of Land Management. Spotted knapweed infests over 2 million acres in Montana, including nearly 300,000 acres of public lands managed by these two agencies. Other problem species are leafy spurge, Canada thistle, and hounds tongue.

With present technology, research, management, and funding, it is not feasible to eradicate all the noxious weeds that are adversely affecting the productivity of Federal lands across the West. For example, under current budgetary constraints, the Forest Service and the Bureau of Land Management are able to treat only about 9,000 acres of public land in Montana each year. This rate of control does not begin to keep up with the estimated 7 to 10 percent annual rate of spread of noxious weeds in Montana and other Western States. Several years of followup treatments are required to ensure extermination of existing plants and germinating seeds.

Present control efforts on National Forest System and Bureau of Land Management lands are directed at new starts, treating the perimeters and buffer zones around private land within large areas of infestation and major problem species. The goal of noxious weed control is to integrate biological and chemical controls with management techniques. Currently, chemical control is the most common control treatment for most weed species. There is a need to increase the research funding for identifying and screening nonchemical biological agents for use on weed species.

Many of our most serious weed problems are caused by species that are not native to North America. Some were imported for a proposed use and others were imported accidentally. The threat of importing new species is a continuing one and is heightened by increases in the diversity of origin and range of products imported, and the increased number of ports of entry for imported products that may harbor noxious weed propagules.

The legislation I am introducing today would authorize and direct the Secretary of Agriculture and the Secretary of the Interior to emphasize and accelerate noxious weed control on lands under their respective jurisdictions. Annual appropriations up to $25,000,000 would be authorized. Such sums would remain available until expended. Subject to the availability of funds, the Secretaries would be directed to establish and implement a program for research, management, and control of noxious weeds.

For any noxious weed abatement program to be effective, the weeds must be treated everywhere they occur regardless of landownership. A control program that only occurs on Federal lands will be ineffective in stopping the spread of the target weeds. Although the main purpose of my bill would be to accelerate the control of noxious weeds on Federal lands, the Secretaries would also be authorized to cooperate with Federal, State, and local government agencies, and private landowners in the prevention, detection, evaluation, and control of noxious weeds, and to make grants and enter into contracts and cooperative agreements to carry out the purposes of the act. Specific project financing methods would be negotiated among the cooperating parties. A coordinated, comprehensive State-by-State plan is basic, with each State taking a lead role in the development of such a plan on non-Federal lands.

The Secretary of Agriculture, through the Forest Service, would have the lead in carrying out the act. The Secretary would also secure uniformity of implementation by coordinating with the Department of the Interior, any other Federal agency, and any appropriate State or local agency.

The Secretary of Agriculture would have the lead in designating noxious weed species, with each State taking a lead role in development of noxious weed designations on non-Federal lands. The characteristics listed for each designated species would be those recommended to the Secretaries of Agriculture and the Interior by an ad hoc committee on noxious weeds.

Mr. President, there is a serious need to increase public awareness and to be much more positive and proactive in noxious weed management, particularly on our Federal lands. We must encourage the transfer of improved technology, development of techniques to prevent the spread and further dispersal of noxious weeds, implement those proven biological control methods, and reinforce proven weed management programs.

I want to reemphasize that noxious weeds are a problem that affects many resources, not just livestock forage and crops. Wilderness, wildlife habitat, visual quality, reforestation, recreation opportunities, and land values are all being negatively affected.

I urge my colleagues to join with me in support of this much needed legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 "Noxious Weed Control Act of 1988".

SEC. 2. FINDINGS, PURPOSES AND DEFINITION.

(a) Congress finds that noxious weeds are adversely affecting Federal land resources, and that their rapid spread constitutes an emergency situation.

(b) The purpose of this act is to authorize the Secretary of Agriculture and the Secretary of the Interior to control noxious weeds on and affecting lands under their respective jurisdictions.

(c) For purposes of this act, a noxious weed is defined as leafy spurge, knapweeds, and any other plant species designated as such by the Secretary of Agriculture, Secretary of the Interior, or by State law or regulation. Generally, noxious weeds will possess one or more of the characteristics of being aggressive and difficult to manage, parasitic, a carrier or host of serious insects or disease, and being native or new to or not common to the United States.

SEC. 3. IMPLEMENTATION.

(a) Subject to the availability of funds, the Secretary of Agriculture and the Secretary of the Interior are authorized and directed to establish and implement a program for the research, management, and control of noxious weeds. The Secretaries are authorized to cooperate with Federal, State and local government agencies, and private landowners, in the prevention, detection, evaluation, and control of noxious weeds, and to make grants and enter into contracts and cooperative agreements to effect the purposes of this act.

(b) The Secretary of Agriculture shall secure uniformity of implementation of this Act by coordinating with the Department of the Interior, any other Federal agency, and any appropriate State or local agency.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated annually the sum of $25,000,000 for the purposes of this act. Such sums shall remain available until expended.●

By Mr. HECHT (for himself, Mr. SYMMS, and Mr. GRAMM):

S. 2588. A bill to suspend the Panama Canal Treaties until such time as Gen. Manuel Noriega and his associates similarly involved in the drug trafficking relinquish political or military control over Panama; to the Committee on Foreign Relations.

SUSPENSION OF PANAMA CANAL TREATIES

Mr. HECHT. Mr. President, recently, I was considering the debate which took place on the giveway of the Panama Canal. As this body is well aware, April 18 of this year marked the tenth anniversary of the 68 to 32 decision that sent the canal into the hands of corrupt, drug-trafficking dictators. I was opposed to this giveaway then, and had I been a member of the Senate in 1978, I would voted against giving up the canal. I believe the vast majority of Americans would have as well.

Mr. President, Panama fills our daily headlines with news about Gen. Manuel Noriega thumbing his nose at the United States while operating in an atmosphere of impunity and contempt. This is especially galling to Americans who, seeing an asset rightfully American given to Panama, now observe Panama exporting drugs into our homes and schools. This is outrageous, Mr. President, and I think this body needs to finally stand up and tell Noriega and Panama in no uncertain terms that neither he nor other dictators are free to violate the laws of the United States, especially when their crimes serve to harm the youth of America.

When the Senate voted to give the canal away 1978, Americans were told that the intransigence of the opponents would create a fertile ground for the Soviet Union in the Western Hemisphere. We were told time and time again that the stubborn and hardheaded attitude against giving away the canal was all that stood in the way of a new era of sunshine and democracy from Panama to Mexico. We were told that if we would just take this one step and give away sovereign United States territory, the Panamanian dictatorship—already known to be involved in drug trafficking—would be replaced with a broad-based democratic system.

Well, Mr. President, much has happened since April 18, 1978, and I believe that it is time to take account of the Gap between the promises proffered to us then and the reality that has happened now.

First, within a matter of months of the canal giveaway, the Soviet Union seized Nicaragua as a new client state. That regime remains in power, it has consolidated its dictatorial grip, and relies heavily on the Soviet, Cuban, and East German military for its sustenance.

Second, we all know the Soviet Union attempted to seize El Salvador through a Communist insurgency launched and supported from Nicaragua. Similar insurgencies have also been launched against Honduras and Guatemala.

And, finally, as we all know Panama is still under a dictatorship. That dictatorship still trafficks in drugs and it is still corrupt.

Mr. President, I wonder who would have voted for the Panama Canal giveaway had he known that following that decision Nicaragua would fall to communism, that El Salvador, Guatemala, and Honduras would all be threatened? Who would have voted yes had he known that the corrupt Panamanian dictatorship would continue? And, who would have backed this giveaway if he had known that Panama would still refuse the DeConcini reservation allowing the United States the right to unilaterally defend the canal?

We cannot allow this situation to continue at our back door, Mr. President, which is why I am today introducing legislation that would suspend America's obligation to give up U.S. rights to manage, operate, maintain, or protect the Panama Canal. Under my proposal, the Panama Canal would return to American control until such time as General Noriega and his drug trafficking associates relinguish political and military control over Panama.

Mr. President, this legislation protects American strategic and domestic interests, and assures that control of the Panama Canal will not pass to General Noriega. Moreover, any of his cronies would be included as objectional, which prevents Noriega from remaining in exiled power. I believe, Mr. President, this bill sends the strongest of signals that the United States is serious about combating the international narcotics trade and most importantly, Panamanian drug trafficking.

Mr. President, over the past few months this body has talked and talked about the drug problem facing America. Well, if we are to find a solution and remove one of the key suppliers of drugs into this country, then we must act soon. If we are serious, lets enact this bill and take back the canal to show Noriega we will not put up with his corruption. Lets take back the canal if we are serious about protecting America's youth. My legislation is the only solution, Mr. President, and I urge my colleagues to help.

By Mr. DECONCINI:

S. 2589. A bill to amend the Internal Revenue Code to restore the deduction for capital gains of individuals, to ensure that the rate of tax on long-term capital gains of individuals does not exceed 21 percent, and for other purposes; to the Committee on Finance.

CAPITAL GAINS DEDUCTION

● Mr. DECONCINI. Mr. President, I am introducing legislation today that will reduce the effective tax rate on capital gains by reinstating a capital gains differential.

Prior to 1987, 60 percent of any net long-term capital gains income was exempt from tax, resulting in an effective top rate of 20 percent. The Tax Reform Act of 1986 repealed the capital gains differential and income from a capital gain is now treated as ordinary income.

I am concerned that this change has resulted and will continue to result in less investment in our domestic economy. At a time when world markets are more competitive than ever, we can ill-afford an eroded investment base.

Additionally, there is a legitimate argument to be made that by eliminating a capital gains differential, we are taxing individual investors on the inflationary increases in their investments. The unfairness of this situation is clear.

Therefore, today I am introducing legislation which will reestablish a capital gains differential of 25 percent. Additionally, my bill would insure that no taxpayer pays more than a top effective rate of 21 percent on capital gain income.

I ask unanimous consent that the text of the bill be printed in the RECORD, at this point.

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

S. 2589

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

SECTION 1. 25 PERCENT DEDUCTION FOR CAPITAL GAINS.

Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding after section 1201, the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 25 percent of the amount of net capital gain shall be a deduction from gross income.

"(b) SPECIAL RULE FOR ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.".

SEC. 2. MAXIMUM CAPITAL GAINS RATE OF 21 PERCENT.

(a) IN GENERAL.—Subsection (j) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) the lesser of—

"(A) the tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income, or

"(B) a tax equal to the sum of—

"(i) the tax computed at the rates and in the same manner as if this section had not been enacted on the taxable income reduced by the amount of net capital gain, plus

"(ii) a tax of 21 percent of the net capital gain, plus

"(2) the amount of the increase determined under subsection (g).".

(b) PHASEOUT OF 15-PERCENT RATE AND PERSONAL EXEMPTION NOT TO APPLY TO CAPITAL GAINS.—Subparagraph (A) of section 1(g)(1) of such Code (relating to phaseout of 15-percent rate and personal exemption) is amended by inserting ", reduced by the amount of net capital gain" after "taxable income".

(c) CONFORMING AMENDMENTS.—

(1) Section 56(b) of such Code (relating to adjustments applicable to individuals) is

amended by adding at the end thereof the following new paragraph:

"(3) CAPITAL GAINS DEDUCTION.—No deduction shall be allowed under section 1202.".

(2) Section 62(a) of such Code (defining adjusted gross income) is amended by adding after paragraph (12) the following new paragraph:

"(13) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(3) Section 163(d)(4) of such Code (defining net investment income) is amended by adding at the end thereof the following new subparagraph:

"(F) NET CAPITAL GAINS EXCLUDED FROM GROSS INCOME.—The net gain described in subparagraph (B)(ii) shall be reduced by the amount excluded from gross income under section 1202.".

(4) Section 170(e)(1) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "long-term capital gain" the second place it appears and inserting "long-term capital gain (reduced by the deduction allowed under section 1202)".

(5) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed.".

(6)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(7) Paragraph (4) of section 642(c) of such Code (relating to adjustments for credits and deductions) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(8) Paragraph (3) of section 643(a) of such Code (relating to distribution of net income) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account.".

(9) Paragraph (4) of section 691(c) of such Code (relating to deduction for estate tax) is amended by striking out "For purposes of sections 1(j), 1201, and 1211" and inserting "For purposes of sections 1(j), 1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) of such Code (relating to capital gains of aliens present in the United States 183 days or more) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and" after "except that".

(11) Section 1402(i)(1) of such Code (relating to special rules for options and commodities dealers) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply.".

(12) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201, the following new item:

"Sec. 1202. Deduction for capital gains.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1987.●

By Mr. MCCONNELL (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BOSCHWITZ, Mr. STEVENS, Mr. WEICKER, Mr. THURMOND, Mr. HATCH, Mr. GARN, Mr. GRAMM, Mr. COCHRAN, Mr. MCCLURE, Mr. TRIBLE, Mr. QUAYLE, Mr. WILSON, Mr. DOMENICI, Mr. MURKOWSKI, Mr. SYMMS, Mr. WALLOP, Mr. KARNES, Mr. HUMPHREY, Mr. NICKLES, Mr. HECHT, Mr. RUDMAN, Mr. ARMSTRONG, and Mr. GRASSLEY):

S. 2590. A bill to amend the Federal Election Campaign Act of 1971 to repeal public financing and spending limits in Presidential elections, prohibit contributions to Presidential candidates by multicandidate political committees, require disclosure of attempts to influence Presidential elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of Presidential campaigns; to the Committee on Finance.

PRESIDENTIAL ELECTION REFORM ACT

Mr. MCCONNELL. Mr. President, at the end of 1988, we will have squandered approximately half a billion dollars on the discredited system under which we are currently electing the President of the United States. We give away millions of the taxpayers' dollars to well-known candidates like Lenora Fulani and the disreputable fringe candidates like Lyndon LaRouche.

Over the last four elections, 1 out of 4 campaign dollars has been wasted on accountants and lawyers figuring out ways to get around the law. Campaigns process each contribution through sometimes as many as 100 steps. Political decisions are, in effect, turned into accounting decisions. Yet there has been unprecedented growth in campaign spending since spending limits were imposed.

This year, overall spending in the Presidential elections, both public dollars and private dollars, will exceed half of a billion dollars in this year alone. That is a 55-percent increase, Mr. President, over 1984. I note the distinguished occupant of the Chair with whom I participated in a radio program yesterday. We were talking about this issue. He was also a candidate for President, a strong supporter of public financing and spending limits.

It is interesting to note that under the Presidential system of spending limits, there will be a 5-percent increase in spending between 1984 and 1988. Yet, in the congressional system where we have no spending limits, the increase in spending from 1984 to 1986 is only 20 percent.

So in a system in which we do not impose limits, there has not been nearly the increase as there has been in the system where we do impose limits, demonstrating, once again, the point the Senator from Kentucky has made over and over again that it will not work.

Trying to impose spending limits is like trying to put a rock on Jell-O; it sort of oozes out the sides into these undisclosed and unaccounted ways of making expenditures.

It is time, Mr. President, to call a halt to it. So today I introduce, on behalf of myself and 25 of my colleagues, including Senators DOLE, SIMPSON, BOSCHWITZ, STEVENS, WEICKER, THURMOND, HATCH, GARN, GRAMM, COCHRAN, MCCLURE, TRIBLE, QUAYLE, WILSON, DOMENICI, MURKOWSKI, SYMMS, WALLOP, KARNES, HUMPHREY, NICKLES, HECHT, RUDMAN, ARMSTRONG, and GRASSLEY, a bill to repeal the way we handled Presidential elections over the last four cycles.

During the Senate debate on S. 2, I made a lot of theoretical arguments against imposing taxpayer financing and spending limits in congressional elections: how we actually spend very little on campaigns compared to pet food, yogurt, bottled water, and cosmetics; how vigorous campaign spending is a sign of high political competition and helps to educate and stimulate voters; how most of the rise in campaign spending is attributable to the cost of television, political action committees, and personal spending by millionaires—all of which we can do something about; how public financing is nothing more than a way for politicians to dip into the public till—soaking up taxpayers' money that could be better spent on drought relief, the drug war, or catastrophic health care; and how a spending limit is nothing more than a limit on participation, on

how much support a candidate can have, on how many citizens can get involved by making a small disclosed contribution to someone they believe in.

In addition to these theoretical arguments, I also made the strongest argument of them all: reality.

Mr. President, if we want to know whether public financing and spending limits are a good idea, we have a stellar example where they have been applied: the Presidential system.

Mr. President, that system has been a disaster ever since taxpayer financing and spending limits were imposed in 1974, and it gets worse every year. Some say there is a "scandal waiting to happen" in the way we finance elections in this country. You can stop holding your breath, because the scandal arrived long ago, and this Congress created it.

We have a system where we will spend, by the end of 1988, nearly half a billion dollars of the taxpayer's money. We give away millions of dollars to well-known candidates like Lenora Fulani, and to disreputable fringe elements like Lyndon LaRouche.

We have created a bureaucratic maze where 1 out of 4 campaign dollars is wasted on accountants and lawyers, figuring out ways to get around the law. Campaigns have to process each contribution through as many as 100 different steps to ensure compliance. Political decisions are turned into accounting decisions. Yet, there has been unprecedented growth in campaign spending since spending limits were imposed.

This year, overall spending in the Presidential election is expected to reach half a billion dollars. That is a 55-percent increase over 1984 spending—a 55-percent increase in one election cycle. In other words, spending limits have been as successful as prohibition was in drying up demon rum.

By comparison, campaign spending in Senate and House races increased only 20 percent between the 1984 and 1986 election cycles, and increases in congressional races have been dropping steadily since the late 1970's.

The Presidental system has turned every candidate into a cheater. It has fostered an alarming disrespect for the law. Bob Beckel, chief of the Mondale campaign and a respected political observer, noted, "this whole FEC thing is a sham . . . If you are not finding every loophole, you are not doing your job."

Special interests now wield more control than ever by spending outside the limits and disclosure requirements. In 1984, $72 million was spent outside of the candidates' control. This year, that figure is expected to rise to $100 million. As Charles Babcock, campaign specialist for the Washington Post, wrote last Monday:

Much of the additional money will be in the form of unregulated and unreported contributions from wealthy individuals, corporations and unions, not permitted to contribute directly to the campaigns.

Mr. President, this system is a scandal and a disgrace. This is what the U.S. Congress bought with half a billion dollars of the taxpayers' money. If we extend this system to Congress, it would be the greatest boondoggle of all time.

It is time for this body to admit that it was wrong to tamper with the first amendment of the Constitution. This welfare program for politicians has been a monumental failure. Spending limits have corrupted the Presidential system, plunging it back into the controlled, scandal-ridden politics of the pre-reform era. The congressional system of limited contributions and full disclosure is really the ideal approach to campaign financing, ensuring a broad base of participation and effectively deterring corruption.

Therefore, Mr. President, I am pleased to introduce legislation today to restore honesty, openness, and respect for the law in our systems for electing the Nation's highest leader.

The Presidential Election Reform Act would: repeal all spending limits and taxpayer financing in Presidential elections; and if there were any money left in the till, perhaps we could distribute it so some worthy cause, like drought relief or catastrophic health care. It would raise the individual contribution limit for Presidential candidates to $5,000; prohibit contributions by PAC's to presidential candidates; require full disclosure of "soft money" expenditures to influence Presidential elections; require full disclosure and notice to all candidates of independent expenditures; and partially close the "millionaire's loophole" for Presidential candidates.

Mr. President, I strongly urge my colleagues to take the careful note of this bill, to read the many articles I have inserted into the RECORD over the past 5 months regarding this disgraceful Presidential system, and to join me and 25 other Senators in taking urgent steps toward campaign finance reform.

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. 2590

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 "Presidential Election Reform Act of 1988".

REPEAL OF PUBLIC FINANCING AND SPENDING LIMITS

SEC. 2. (a) Chapters 95 and 96 of the Internal Revenue Code of 1986, all references to such chapters, and all references to any sections in such chapter are repealed.

(b) Section 6096 of the Internal Revenue Code of 1986 and all references to such section are repealed.

REPEAL OF PRESIDENTIAL LIMITS

SEC. 3. (a) Subsection (b) of section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(b)) and all references to such subsection are repealed.

(b) Subsection (g) of section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(g)) and all references to such subsection are repealed.

INCREASED INDIVIDUAL CONTRIBUTION LIMIT FOR PRESIDENTIAL CANDIDATES

SEC. 4. Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively;

(2) by inserting a new subparagraph (A) as follows:

"(A) to any candidate and his authorized political committees with respect to any nomination or election to the office of President or Vice President which, in the aggregate, exceed $5,000;"; and

(3) in subparagraph (B), as redesignated herein, by striking out "any election" and inserting in lieu thereof "any election other than an election described in subparagraph (A)".

PROHIBITION AGAINST CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES TO PRESIDENTIAL CANDIDATES

SEC. 5. Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively;

(2) by inserting a new subparagraph (A) as follows:

"(A) to any candidate and his authorized political committees with respect to any nomination or election to the office of President or Vice President;"; and

(3) in subparagraph (B) by striking out "any election" and inserting in lieu thereof "any election other than an election described in subparagraph (A)".

REQUIREMENT FOR REPORTING CERTAIN EXEMPT CONTRIBUTIONS AND EXPENDITURES

SEC. 6. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) When used in this subsection—

"(A) the term 'election' means any nomination or election to the office of President or Vice President;

"(B) the term 'otherwise exempt activity' means any act of furnishing, arranging to be furnished, or otherwise making available any services, payment, or other benefit described in paragraph (A), (B), or (C) of section 316(b)(2) (2 U.S.C. 441b(b)(2));

"(C) the terms 'corporation' and 'labor organization' have the same meanings as in section 316 (2 U.S.C. 441b).

"(2)(A) At the times prescribed in paragraph (4), a corporation shall file a report with the Commission under this subsection if, during the period for which the report is filed, such corporation has engaged in any otherwise exempt activity in connection with an election.

"(B) At the times prescribed in paragraph (4), a labor organization shall file a report with the Commission under this subsection if, during the period for which the report is filed, such labor organization has engaged

in any otherwise exempt activity in connection with an election.

"(C) At the times prescribed in paragraph (4), each national committee of a political party shall file a report with the Commission under this subsection containing a declaration of whether, during the period for which the report is filed, such committee has engaged in any otherwise exempt activity in connection with an election. For purposes of this subparagraph, the term 'otherwise exempt activity' refers to an activity described in paragraph (8)(B) or (9)(B) of section 301 (2 U.S.C. 431 (8)(B) or (9)(B)).

"(3) Each person required to file a report under this subsection shall include in such report—

"(A) a description of each exempt activity engaged in, in connection with an election, by such person during the period covered by the report; and

"(B) the amount of each payment and the cost and fair market value of each of the services and other benefits described in the report in accordance with clause (A).

"(4) The reports under this subsection shall be filed at each of the times prescribed in subsection (a)(4)(A) for reports of political committees other than authorized committees of a candidate.

"(e)(1) Any independent expenditures (including those described in subsection (b)(6)(B)(iii)), by any person with regard to an election which may directly result in the nomination or election of a person to the office of President or Vice President, which in the aggregate total more than $10,000, shall be reported by such person to the Commission within 24 hours after such independent expenditures are made. Thereafter, any independent expenditures by such person in the same election aggregating more than $5,000 shall be reported by such person to the Commission within 24 hours after such independent expenditures are made.

"(2) Such statements shall be filed with the Commission, Secretary of State for the State of the election involved and with the principal campaign committee of each candidate in the general election, and shall contain the information required by subsection (b)(6)(B)(iii) of this section and a statement filed under penalty of perjury by the person making the independent expenditures indicating whom the independent expenditures are actually intended to help elect or defeat. The Commission shall notify any candidate in the election involved about each such report within 24 hours after such report is made.

"(3) Notwithstanding the reporting requirements established in this paragraph, the Commission may make its own determination that a person has made independent expenditures with regard to an election which may directly result in the nomination or election of a person to the office of President or Vice President that in the aggregate total more than $10,000, and thereafter that in the aggregate total more than $5,000.

"(4) The Commission shall notify each candidate in the election involved about each such determination within 24 hours after such determination is made.".

(b) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c) Any activity exempt under paragraph (A), (B), or (C) of subsection (b)(2) shall be subject to the reporting requirements of section 304(d).".

DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 7. (a) Section 318(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by deleting the period at the end thereof and inserting in lieu thereof the following: ", except that whenever any person makes an independent expenditure, with regard to an election which may directly result in the nomination or election of a person to the office of President or Vice President, through (A) a broadcast communication on any radio or television station, the broadcast communication shall include a statement—

"(i) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(ii) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and in the case of a political committee, the name of any connected or affiliated organization, or (B) a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.

"(4) The person making an independent expenditure described in paragraph (3), with regard to an election which may directly result in the nomination or election of a person to the office of President or Vice President, shall furnish, by certified mail, return receipt requested, the following information, to each candidate in the election and to the Commission, not later than the date and time of the first public transmission (e.g. first aired, mailed, published, or displayed):

"(A) effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate for the office of President or Vice President;

"(B) an exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication;

"(C) all approximate dates and times when such communication will be publicly transmitted; and

"(D) each specific location, media channel, and publication through which the communication will be publicly transmitted.".

INDEPENDENT EXPENDITURES

SEC. 8. (a) Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by adding the following: "An expenditure, with regard to an election which may directly result in the nomination or election of a person to the office of President or Vice President, shall constitute an expenditure in coordination, consultation, or concert with a candidate and shall not constitute an 'independent expenditure' where—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees,

"(ii) serving as an officer of the candidate's authorized committees, or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to the office of President or Vice President, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to the office of President or Vice President, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to the office of President or Vice President, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; and

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

LIMITATION ON CANDIDATE EXPENDITURES FROM PERSONAL FUNDS

SEC. 9. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1)(A) Within 15 days after a candidate qualifies for any primary election ballot for nomination or election to the office of President or Vice President, such candidate shall file with the Commission and each other candidate who has qualified for such ballot, a declaration stating whether or not such candidate intends to expend funds and incur personal loans for the primary and general election a total amount, in the aggregate of $250,000 or more from the following sources: (i) his personal funds, (ii) the funds of his immediate family, and (iii) personal

loans incurred in connection with his campaign for such office.

"(B) The statement required by this subsection shall be in such form, and contain such information, as the Commission may, by regulation, require.

"(2) Notwithstanding any other provision of law, in any nomination or election for the office of President or Vice President, in which a candidate declares that he intends to expend or incur, in the aggregate, $250,000 or more by expending from personal funds and funds of his immediate family and incurring personal loans for his campaign, or does expend funds and incur loans in a total in excess of such amount, or fails to file the declarations required by this subsection, the limitations on contributions in subsection (a) of this section, as they apply to all other individuals running for such office, shall be increased for such election as follows:

"(A) The limitations provided in subsection (a)(1)(A) shall be increased to $10,000, and

"(B) The limitations provided in subsection (a)(3) shall be increased to an amount equal to 150 percent of such limitation, but only to the extent that contributions above such limitation are made to candidates affected by the increased level provided in subparagraph (A).

"(3) If the limitations in this section are increased pursuant to paragraph (2) for a convention or a primary election as they relate to an individual candidate, and if such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of subparagraph (A) of paragraph (2) shall cease to apply.

"(4) Any candidate who—

"(A) declares, pursuant to paragraph (1) that he does not intend to expend and incur, by expending from his personal funds and the funds of his immediate family and incurring personal loans in connection with his campaign an amount which in the aggregate totals $250,000 or more; and

"(B) subsequently does spend funds or incur loans in excess of such amount, or intends to spend funds or incur loans in excess of such amount,

shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.

"(5) Notwithstanding any other provision of law, no candidate may make expenditures from his personal funds or the personal funds of his immediate family, or incur personal loans in connection with his campaign for election to such office at any time after 60 days before the date of such election. The provisions of this paragraph shall apply to all candidates regardless of whether such candidate has reached the limits provided in this subsection.

"(6) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.".

(b) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(j) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for nomination or election to the office of President or Vice President, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person, after the election, to such candidate or the principal campaign committee of such candidate to repay any such expenditure or loan.

"(k) For purposes of this section, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse, and any spouse of any such person.".

(c) Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate for the office of President or Vice President may use any contributions in a manner prohibited by section 315(j)".

SEVERABILITY

SEC. 10. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 11. This Act and the amendments made by this Act shall become effective on November 8, 1988, and shall apply to all contributions and expenditures made after such date.

By Mr. BAUCUS:

S. 2591. A bill to amend the Agricultural Act of 1949 to provide drought relief to agricultural producers by requiring that deficiency payments paid to producers for the 1988 crop year in counties declared disaster areas be based on 92 percent of the projected payment rate, and for other purposes; to the Committee on Finance.

DROUGHT ASSISTANCE

● Mr. BAUCUS. Mr. President, I rise today to introduce emergency legislation to assist farmers in drought stricken areas of the Farm Belt.

Mr. President, we are now in the grip of one of the worst agricultural droughts that the Nation has ever seen.

Farmers in Montana, North Dakota, and Minnesota have been particularly hard hit.

USDA forage estimates indicate that grazing land in Montana is actually in worse shape than it was during the dust bowl of the Great Depression.

More than 60 percent of the wheat and barley crop in Montana and North Dakota is in poor or very poor condition.

Farmers in Montana can expect to harvest less than half of their normal crop.

In the drought areas of Montana, precipitation is only about 30 percent of normal and temperatures are far above normal.

This is a natural disaster by anyone's definition.

Two weeks ago, I toured the drought areas of South Dakota, North Dakota, and Montana with Senator LEAHY, Senator DASCHLE, Senator BURDICK, Senator CONRAD, Senator MELCHER, Congressman DORGAN, and Congressman PENNY.

I think I can speak for all of my colleagues on the trip when I say that we were shocked by what we saw.

I have never seen Montana's crop and grazing land in such poor shape. The drought has devastated the entire region.

Unfortunately, farmers are increasingly finding that current disaster programs are not adequate to deal with the drought.

Despite the best efforts of Secretary Lyng, this drought will require special legislation.

I am today introducing a bill that should receive expedited attention of the Agriculture Committee.

The bill is designed to respond to the needs of crop farmers.

Crop farmers cannot get a great deal of relief from current disaster programs. The disaster programs are largely tailored to address the needs of livestock producers in a drought.

But crop farmers suffer from the drought too.

Those farmers that produce crops covered by the farm program face a catch 22. As the market price of the commodities that they produce rises because of the drought the Government deficiency payment drops. But the drought has killed most of their crop so they cannot take advantage of the higher market price.

As it stands right now, the Federal Government actually stands to save money because of the drought as rising farm prices cut government deficiency payments.

The Federal Government should divert some of the moneys that it will save back to disaster striken farmers.

The legislation that I am introducing today does exactly that by directing the Secretary of Agriculture to guarantee farmers in counties that have been declared disaster areas 92 percent of the deficiency payment that they were projected to get at the beginning of the growing season.

The 92-percent figure was chosen to make the disaster payments consistent with the payment level in the 0/92 program.

This bill would ensure that crop farmers faced with financial ruin as a result of the drought are able to continue operating.

Mr. President, I urge the Agriculture Committees in both Houses to act quickly to address the needs of farmers hit by the drought.

I know that the drought task force, led by Senator LEAHY and Congress-

man DE LA GARZA, is working to develop a response to the drought. I hope that we can move forward in a bipartisan fashion with the assistance and support of the administration.

The drought is not a partisan issue. The drought is hitting members of both parties.

I also understand that the esteemed senior Senator from Montana—Senator JOHN MELCHER—is today introducing an omnibus drought bill to address a whole spectrum of drought related problems.

I applaud his efforts, and hope that the Agriculture Committee gives serious consideration to his bill.

We must move swiftly to address the drought.●

By Mr. CRANSTON:

S. 2592. A bill to require the Secretary of Health and Human Services to develop and implement specific criteria for determining the eligibility of individuals with symptomatic human immunodeficiency virus infection for disability-related benefits under titles II and XVI of the Social Security Act, and for other purposes; referred to the Committee on Finance.

SOCIAL SECURITY DISABILITY BENEFITS FOR PERSONS WITH ARC

Mr. CRANSTON. Mr. President, I am very pleased to be introducing today S. 2592, legislation to help correct a very serious problem facing individuals who have serious, disabling illnesses which result from infection with the human immunodeficiency virus [HIV] but which do not meet the strict definition of AIDS. Many individuals with AIDS-related complex [ARC] fall into that category but cannot receive disability benefits under Social Security because there are no clear standards for reviewing their cases. This legislation would require the Secretary of Health and Human Services [HHS] to develop criteria for assessing the disability claims of these individuals.

Mr. President, I am delighted that my good friend from San Francisco, Representative NANCY PELOSI, is introducing a companion bill in the House of Representatives today.

Mr. President, infection with the HIV can result in a range of conditions and diseases—now being referred to as symptomatic HIV infection—that do not meet the strict Centers of Disease Control [CDC] definition of AIDS. People with symptomatic HIV infection, such as ARC, can be mildly ill or completely debilitated. ARC, in some circumstances, can be life threatening.

Yet, too often people infected with the HIV who no longer can work, are unable to obtain Social Security benefits or must wait a year or longer to begin receiving them. The Social Security Administration's [SSA] current policy is for such cases to be decided on a case-by-case basis. It provides no specific guidelines or criteria to assist claims examiners in making determinations for these individuals.

Unfortunately, the result has been that many individuals are initially turned down, forcing them to fight for their benefits through lengthy appeals processes. By the time many of the cases are resolved, the illness has advanced to AIDS or even death.

Mr. President, many Californians with symptomatic HIV infection have sought my help to expedite the process. One such man, Mike—not his real name—was diagnosed in August 1987 with ARC and applied for SSI benefits soon after. He said that the disease had made him too weak to work. He had lost 30 pounds, his job, and his apartment. He is currently living at the Episcopal Sanctuary because he has no money or place to stay. Mike's application for SSI benefits was denied and a hearing on his case occurred earlier this month. That's nearly 10 months since he applied and there is still no definitive answer to his application. For people like Mike, who are very ill and may be dying, those are very precious months.

Mr. President, the legislation I am introducing would help resolve this situation. It would require the Secretary of HHS to develop criteria so that determinations would be made fairly and expeditiously.

BACKGROUND

Mr. President, disabled individuals generally may receive two types of income-maintenance Federal benefits under the Social Security Act—Social Security disability insurance [SSDI] or supplemental security income [SSI]. SSDI is available to disabled individuals who have worked in Social Security-covered employment and thus have paid Social Security taxes for a specified period of time. SSI is a means-tested benefit available to disabled low-income individuals without regard to Social Security coverage. Receipt of SSI benefits also makes an individual eligible for Medicaid, which is often the only source of health coverage for such individuals.

Persons with symptomatic HIV infection are often initially denied benefits and forced to go through the time-consuming maze of reconsiderations and appeals. The primary reasons for this are that there are no clearly defined standards for individuals with non-AIDS symptomatic HIV infection and medical records often do not provide sufficient information to indicate clearly the degree of disability.

Mr. President, we believe that the SSA, after more than 3 years of reviewing such cases, now has had enough experience with ARC to develop criteria regarding what constitutes "disabling symptomatic HIV infection". Although the SSA reports that 65 percent of ARC applicants are approved at the initial or reconsideration level, more than 1,400 applications have been denied. It's unclear how many of these individuals are too disabled to work and should not have been denied benefits. Even for individuals whose applications were approved, in many cases, they must first contend with months and months of uncertainty.

However, without criteria or guidelines, there is no way to know how many individuals were unfairly denied or had experienced delays in receiving benefits and no way to ensure that individuals with similar conditions will be treated fairly in the future. Because of the very nature of HIV infection—it is not a single disease, but rather a combination of various conditions and diseases—the lack of clear guidelines has, I believe, resulted in arbitrary and, often unfair, decisions.

Mr. President, I would urge the Secretary in developing these criteria to be compassionate and fair and to listen to medical advice, not politics.

SUMMARY OF PROVISIONS

Mr. President, this legislation would require the Secretary to develop specific eligibility criteria for disability-related benefits for individuals with symptomatic HIV infection. Because capacity to work is critical to receiving benefits, these criteria would be required to include the evaluation of functional restrictions resulting from infection with the HIV. The Secretary would be required to consult with relevant medical and advocacy groups and specialists in developing criteria.

After the criteria are developed, the Secretary would be required to submit to the Senate Finance Committee and House Ways and Means Committee, not later than 12 months after the date of enactment, a report on such criteria, including a description of the rationale for the criteria and those individuals consulted, and an estimate of the feasibility and impact of their implementation. In order to give Congress an opportunity to review the criteria before they take effect, the Secretary would be directed to implement them no later than 90 days and no earlier than 60 days after the report is submitted to Congress.

This legislation would also require the Secretary to establish guidelines to promote improved coordination between the Federal and State disability programs. Because it is often confusing and difficult for individuals to find out what benefits exist and what the eligibility requirements are on both the State and Federal level for disability benefits, this provision is intended to help make that information more easily accessible through increased cooperation and coordination between the agencies.

CONCLUSION

Mr. President, it is hard to imagine the frustrations that people with dis-

abling ARC feel when they are told that they are not eligible for benefits because they don't have the specific combination of conditions necessary to meet the AIDS definition. Yet, as I already noted, people with ARC can be as sick or sicker than people with AIDS. The impact of the disease on their functional capabilities, determined in accordance with clearly delineated and understood guidelines, should be the basis for determining their eligibility for benefits. This legislation would provide for the establishment of such guidelines so that all individuals who are disabled by the HIV are treated fairly by our Social Security system.

Mr. President, I urge all my colleagues to support this measure, and ask unanimous consent that the text of the bill be printed.

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

S. 2592

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

SECTION 1. ELIGIBILITY OF INDIVIDUALS WITH SYMPTOMATIC HUMAN IMMUNODEFICIENCY VIRUS INFECTION FOR CERTAIN DISABILITY-RELATED BENEFITS.

(a) ESTABLISHMENT OF SPECIFIC ELIGIBILITY CRITERIA.—

DEVELOPMENT OF CRITERIA.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall develop specific eligibility criteria for disability-related benefits under titles II and XVI of the Social Security Act for individuals with symptomatic human immunodeficiency virus infection (in this section referred to as the "infection"), including criteria for determining whether such individuals are disabled by reason of the infection.

(B) EVALUATION OF FUNCTIONAL RESTRICTIONS.—The criteria developed under subparagraph (A) shall require the evaluation, in individual cases, of functional restrictions resulting from the infection.

(C) CONSULTATION REQUIREMENT.—In developing the criteria under subparagraph (A), the Secretary shall consult with relevant medical and advocacy groups and specialists on disorders related to the infection.

(2) REPORT ON CRITERIA.—The Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the criteria developed under paragraph (1)(A) not later than 12 months after the date of enactment of this Act. Such report shall include an explanation of the rationale for such criteria, a description of the groups and individuals consulted in developing such criteria, and an estimate of the feasibility and impact of implementing such criteria.

(3) IMPLEMENTATION OF CRITERIA.—The Secretary shall take appropriate steps to ensure that the criteria developed under paragraph (1)(A) are implemented not later than 90 days after the report is submitted under paragraph (2) but shall in no event implement such criteria prior to 60 days after such report is submitted.

(b) INTERIM REPORT.—Not later than six months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing any efforts the Secretary has undertaken to assure fair and equitable decisions with respect to the eligibility of individuals with the infection for disability-related benefits under titles II and XVI of the Social Security Act.

SEC. 2. IMPROVED COORDINATION OF FEDERAL AND STATE DISABILITY PROGRAMS.

(a) REQUIREMENT OF GUIDELINES.—Not later than six months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish guidelines to promote improved coordination between the Social Security Administration and State disability agencies with respect to the provision of disability-related benefits under titles II and XVI of the Social Security Act and state disability insurance programs to ensure, to the extent practicable, that individuals applying for any such benefits are made aware of the full range of Federal and State disability-related benefits for which they may be eligible.

(b) REPORT TO CONGRESS.—The Secretary of Health and Human Services shall report to the Congress on the guidelines established under subsection (a) not later than two months after such guidelines are issued.

By Mr. DANFORTH:

S. 2594. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who pay the costs of employee assistance programs; referred to the Committee on Finance.

TAX CREDIT FOR EMPLOYEE ASSISTANCE PROGRAMS

● Mr. DANFORTH. Mr. President, I am introducing a bill today that I believe will help to reduce drug and alcohol abuse in the workplace by providing a credit against tax for employers who pay the costs of employee assistance programs [EAP's].

Employee assistance programs provide the crucial function of placing alcohol and drug abusers in rehabilitation programs best suited for their needs. In addition, employee assistance programs provide counseling for emotional or family problems. During counseling, drug or alcohol abuse is often found to be closely related to emotional problems. Treatment and rehabilitation can be prescribed for the substance abuse problem, and the EAP provider can take an active role in ensuring that employees complete the prescribed program. In other cases, counseling can provide employees with help to overcome emotional problems before they lead to alcohol or drug abuse problems.

Forty-three States already require some form of alcohol and drug rehabilitation as part of a company's health insurance program. The question is, do we need more? Statistics show that we do. In the United States, alcohol and drug abuse cost businesses $60 billion every year. More than 13 million U.S. workers are troubled by substance abuse and have no direct access to counseling. However, it is estimated that, if these people worked in companies with EAP's, 1.1 million of them would be reached. Moreover, the longer EAP's are in place, the more successful they become. In fact, those few employers who have already adopted EAP report that the programs pay for themselves through improved employee productivity.

Under this bill, the employer would receive a 10-percent tax credit for the costs of qualified employee assistance programs. A qualified program is defined as one designed to assist in the indentification and resolution of personal problems such as alcohol and drug abuse, failing health, emotional instability, or failure to cope with stress. A qualified program must also offer expert consultation and training to the appropriate people in the workplace to identify and resolve job performance issues related to such personal problems. Finally, a qualified program must offer confidential problem assessment services, referrals for appropriate diagnosis, treatment and assistance, linkage between the workplace and community resources which provide such services, and followup services for employees who use such services. The maximum eligible for the credit would be $30 per employee for any taxable year.

This carefully defined type of employee assistance program can effectively fight drug and alcohol abuse because it attacks the very root of the problem—demand reduction. By encouraging companies to adopt such programs, we can open the door for over 1 million alcoholics and drug addicts to overcome their addiction. It is well-documented that saying "no" once you have already said "yes" is nearly impossible. This bill would help those who have, tragically, already said "yes" to drugs to once again say "no"—to say "no" to the despair of addiction and the bleak world of substance abuse, and to say "yes" to life and hope.

We cannot simply ignore those people who are addicted to alcohol or drugs. We cannot give them up as a lost cause. We cannot let revulsion for the drug become revulsion for the user. The path to solving the problem of substance abuse is going to be a long and difficult one because easy answers are not going to provide the solution. This bill represents not an easy answer, but a carefully crafted step on the long road toward national substance abuse recovery.

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. 2594

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

SECTION 1. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENDITURES FOR CERTAIN EMPLOYEE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. EMPLOYEE ASSISTANCE PROGRAM CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the employee assistance program credit determined under this section for the taxable year shall be an amount equal to 10 percent of the qualified employee assistance program expenditures for such taxable year.

"(b) QUALIFIED EMPLOYEE ASSISTANCE PROGRAM EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified employee assistance program expenditures' means the aggregate amount of expenditures paid or incurred by the taxpayer during the taxable year in providing for or contributing to an employee assistance program.

"(2) ONLY FIRST $30 OF QUALIFIED EMPLOYEE ASSISTANCE PROGRAM EXPENDITURES TAKEN INTO ACCOUNT.—The amount of qualified employee assistance program expenditures which may be taken into account with respect to any employee shall not exceed $30 for any taxable year.

"(3) EMPLOYEE ASSISTANCE PROGRAM.—The term 'employee assistance program' means a program—

"(A) designed to assist in the identification and resolution of personal problems which may adversely affect employee job performance, including alcohol, drug, health, marital, family, financial, legal, emotional, or stress, and

"(B) consisting of—

"(i) expert consultation and training to appropriate persons in the identification and resolution of job-performance issues related to such personal problems, and

"(ii) confidential, appropriate, and timely problem-assessment services, referrals for appropriate diagnosis, treatment and assistance, establishing linkages between workplace and community resources which provide such services, and follow-up services for employees who use such services.

"(4) EMPLOYEE.—The term 'employee' includes an employee within the meaning of section 401(c)(1).

"(d) SPECIAL AGGREGATION AND ALLOCATION RULES.—For purposes of this section—

"(1) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified employee assistance program expenditures giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such trade or business shall be its proportionate share of the qualified employee assistance program expenditures giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) ALLOCATIONS.—

"(A) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(e) ADDITIONAL BENEFIT.—The credit allowable under this section with respect to qualified employee assistance program expenditures of the taxpayer shall be in addition to any deduction or credit allowed the taxpayer under any other provision of this chapter with respect to such expenditures.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5), and inserting in lieu thereof a comma and "plus", and

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

"(6) the employee assistance program credit determined under section 43.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 43. Employee assistance program credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

By Mr. HEINZ:

S. 2596. A bill to extend the period in which a certain certification under subchapter A of chapter 2 of title II of the Trade Act of 1974 is in effect; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE

● Mr. HEINZ. Mr. President, today I am introducing legislation to correct an inequity faced by a handful of older, senior employees of Babcock & Wilcox in Beaver Falls, PA. The B&W plant was covered by a trade adjustment assistance certification which expired over 2 years ago. Under present law, a certification is valid for a period of 2 years following its approval.

In this specific instance, the law has penalized the very workers it was intended to help. Babcock & Wilcox has not simply given up the fight against unfair trade. This plant is still fighting for dear life, keeping a skeleton workforce employed. Senior employees, who were under contract and had to stay on the job—even after their TAA certification expired—lost all their trade act benefits when they were finally separated from employment.

Mr. President, I am talking about a handful of workers who are older, and have spent most of their lives in the mill. By definition, these are the workers who need adjustment assistance the most. Their skills are often outmoded, and because of their age they will have the greatest difficulty in finding a new job.

My legislation would simply extend the B&W petition to cover this small number of workers with the benefits they should be eligible to—job training and assistance.

The cost of the amendment is insignificant. CBO finds it would cost less than $300,000. My impression is that the actual cost would prove to be a tiny fraction of that amount.

The cost of failing to return skilled workers to productive lives is far higher—it threatens our ability to meet the challenges of the international marketplace. We will not expand our economy if we leave behind skilled, effective workers who need assistance to build a new career.

I urge my colleagues to assist me in providing these valued workers with the help they need to build new lives.●

By Mr. INOUYE (for himself, Mr. BURDICK, Mr. GRASSLEY, Mr. DURENBERGER, Mr. SHELBY, Mr. WIRTH, Mr. ROCKEFELLER, Mr. GORE, Mr. COCHRAN, Mr. BAUCUS, Mr. EXON, Mr. CONRAD, Mr. SIMON, and Mr. KASTEN):

S. 2597. A bill to establish an interdisciplinary training grant program for the benefit of rural areas; to the Committee on Labor and Human Resources.

INTERDISCIPLINARY TRAINING GRANT PROGRAM FOR RURAL AREAS

Mr. INOUYE. Mr. President, today I am introducing a bill that will address the shortage of health professionals in rural America. I am pleased to be joined by my colleages, Senators BURDICK and GRASSLEY, in presenting this bill.

This legislation addresses the severe shortage of health professionals in two ways. First, our bill encourages training programs to provide students with experience in a rural setting. It has been demonstrated that one of the surest ways to encourage health professionals to practice in rural settings is to expose them first-hand to a rural practice experience.

Second, our bill promotes multidisciplinary training, designed to build "team players" who can function most effectively in rural health care facilities. We believe multidisciplinary "team" training will prove an effective

method of decreasing the current shortages as well as helping students learn how they can become members of a team of rural health professionals without having to practice in isolation. This will ease the difficulty rural areas face in retaining as well as recruiting health providers.

This program is built on the model of area health education centers, an effective approach to providing health care training directed toward rural Americans.

The health care needs of those Americans who live in the rural areas of our country are not being met effectively. There are fewer hospitals doing business in rural areas today—71 community hospitals closed in 1986, 40 percent more than the number that closed in 1985. The "mom-and-pop" hospitals of the 1970's discovered that they could not compete with the larger volume urban health care institutions. The cost of expensive technology and the rapidity with which the technology became obsolete combined to force many small hospitals out of business.

Those rural hospitals that are operating are being reimbursed for patient care services at a lesser rate than their urban counterparts on the premise that rural hospitals cost less to administer. However, costs are often higher as fixed costs are at base levels and there are low operating margins. In addition, elderly patients usually require extended stays in hospitals for which the institutions are not reimbursed.

Many rural communities face a shrinking tax base due to the fact that many small industries have been gobbled up by larger companies and have been moved to urban areas. In addition, many rural young people have moved to the cities for jobs, leaving a greater proportion of nonworking elderly behind.

Without their family support system, many elderly feel alienated or abandoned and are subject to physical and emotional crises. These older Americans have more complex health care needs—nearly always multiple diagnoses that require multiple treatment modalities.

Having a sense of space and a sense of belonging to the community are noted as advantages to rural living, but it also creates special problems related to the health care delivery system for rural residents. For example, the elderly frequently travel many miles to see a health care provider, such as a nurse, psychologist, optometrist, or other professional. The nature of their health problems may necessitate a long stay in an unfamiliar place. They may find themselves in an environment that is stressful and insensitive to their cultural values. And they may not have adequate or appropriate followup care when they return to their rural homes.

Rural health care providers also face problems, such as caring for a population that is older, sicker, and less likely to have adequate health insurance. And if the providers were educated more than 10 years ago, they may not have had any education or training about the special needs of the elderly.

As the population of this great Nation becomes increasingly older, it is important that we prepare now to meet the issues of health and our rural elderly. This legislation will address two very vital aspects of health care and I hope that my colleagues will support it with wisdom and enthusiasm.

Mr. BURDICK. Mr. President, today I am pleased to introduce a bill, with my distinguished colleagues Senators INOUYE, GRASSLEY and others, that will help to alleviate the health care shortage crisis in rural America.

This bill addresses the issue of how to recruit highly trained and qualified health care professionals for rural communities. The economy and evironment of rural areas create a unique set of health care problems.

As you know, many types of health care providers are needed to meet these demands. As co-chairman of the Senate Rural Health Caucus, I am concerned with the increasing difficulties rural communities have in attracting qualified health care personnel. Trained professionals are discouraged by heavy patient loads, outdated equipment, lack of support and little financial reward.

More than 25 percent of all Americans live in rural areas. Yet rural America holds only 14 percent of our Nation's pharmacies, and 18 percent of the Nation's nurses. In my State of North Dakota, there is a continuing shortage of psychologists in rural areas—a shortage that is expected to increase.

In addition to problems recruiting and retaining these and other health care providers, our rural health care facilities are experiencing other problems. Since 1980, 161 rural community hospitals have been forced to close. Of the remaining 2,700 rural hospitals, as many as 600 face closure. A lack of nurses, physical therapists and others, combined with the risk of hospitals closing, increase the problems rural Americans face in trying to obtain adequate health care.

The legislation we are introducing is designed to attract health care professionals to rural America. This bill promotes well-rounded health care providers by adding a rural health rotation to their health care problems. Current trends in the availability of rural health care personnel show alarming decreases.

I hope my colleagues appreciate this crisis situation developing in rural America and will support this legislation.

Mr. BAUCUS. Mr. President, I am pleased to be an original cosponsor of this important legislation which builds on our recent work in Congress to improve rural health care across the Nation.

Nearly 60 million Americans, almost one-fourth of the U.S. population, live in rural parts of the country. But when it comes to health care, all too often the needs of rural Americans don't get the attention they deserve.

In my own State of Montana, we have about four hospitals for every 10,000 square miles—that's one-fourth the national average. In 1985 we ranked 42d in the Nation in population per physician, with 30 percent fewer physicians for every 100,000 residents than the Nation as a whole. In fact, more than two-thirds of the State's population live outside of our cities. Nearly 60 percent of the counties in Montana are now classified by the Federal Government as "health manpower shortage areas." That's one of the highest in the Nation. In Montana and other rural Western States, a sparse population spread out over an enormous area has always made maintaining access to high quality, modern health care a challenge.

This bill addresses a rural health care issue that needs more attention: attracting and retaining health professionals where they are needed—in rural areas. Even though the country as a whole is experiencing a physician glut, many doctors are not choosing to set up practices in rural areas. As a result, the average age of "country doctors" is increasing since few young physicians are electing to join their ranks after completing their lengthy training period. The problem is geographic distribution.

There are a number of reasons for this problem, including increasing specialization in medicine, the high amount of personal debt often incurred in getting medical education, and the rapidly rising costs of practicing medicine. All of these factors make practicing health care in rural America seem like something of a sacrifice compared to practicing in other parts of the country.

We can't force doctors or other health professionals to locate in rural areas. But we can begin to provide better incentives for those who might be considering a rural medical practice.

For example, the Montana Medical Association recently reported that a full two-thirds of the family practitioners who provide obstetrical care in Montana have net incomes of less than $50,000 a year. And a growing share of that income is being dedicat-

ed each year to rapidly rising professional liability insurance. By contrast, the median income of all U.S. neurosurgeons was $142,500 in 1982, nearly three times higher than the earnings of the majority of family practice doctors in Montana.

With those kinds of variations in income potential, it's not surprising that insufficient numbers of young physicians are choosing rural practices.

But just increasing the supply of physicians in America will not solve the problem. There will still be a shortage of skilled health professionals in rural areas until we begin to straighten out some of the incentives that determine where physicians locate.

What this bill does is change those incentives to increase the chances that young physicians will choose to practice in rural areas that suffer from shortages of health professionals. It promotes multidisciplinary training, designed to build "team players" who can function most effectively in rural health care facilities. The bill also encourages the development of training programs to provide students with experience in a rural setting. Most health care workers who practice in rural areas are satisfied with their work, so encouraging students to go there initially is likely to increase the numbers of health professionals in those areas.

We have made great strides in the last few years toward making health care in rural America fairer and more accessible. But more work is needed. I hope that many of my colleagues will join us in supporting this legislation that will help to protect the availability of health care for rural communities.

Mr. GRASSLEY. Mr. President, I am pleased to be a primary cosponsor, with my colleagues Senators BURDICK and INOUYE, of a bill we are introducing today which is designed to increase the supply of health care professionals in rural communities.

Many of us believe that we face a growing problem of shortages in the number of health care professionals practicing in rural communities. In Iowa, for instance, we had in 1986 a gain of 297 physicians starting new practices across all specialties. That sounds pretty good until you consider the fact that 281 physicians ceased practice through retirement, relocation, disability or death. So, the net gain was 16 physicians. In the year before, 1985, my State had a net loss of 14 physicians. Prior to these last 2 years, there had been in Iowa a net gain of at least 75 physicians a year for 8 consecutive years.

The situation is even worse when one considers only family practitioners. In 1986, 82 new family practices were started in Iowa. But we lost 108. So there was a loss of 26 family practitioners in my State. Two years of greatly reduced gains, or losses, in the number of physicians probably cannot be said to make a trend. Yet, it is disquieting.

At the present time, in Iowa 160 communities are actively seeking a total of 250 physicians.

We also appear to be facing a shortage of nurses in Iowa. This matter of a shortage of nurses is one we are hearing a good deal about at the national level also. I understand that there is no consensus as to whether there actually is a national nursing shortage, although goodness knows there seems to be considerable evidence that there is such a shortage.

In Iowa, although there have been increases in the numbers of BSN graduates over the last 2 years, there have been substantial decreases in the number of graduates from other types of nurses education programs. Most of these graduates would practice in Iowa. Between 1986 and 1987, for instance, the number of graduates from BSN programs increased about 15 percent, but the number of graduates from diploma programs declined 18 percent, and the number of ADN graduates declined about 7 percent. The change between 1985 and 1986 for the same types of programs was plus 15 percent, minus 16 percent, and minus 4 percent.

It is also disturbing to note that there have been decreases in the number of people enrolling in nursing programs in Iowa. Although the number of BSN entrants increased about 14 percent between 1985 and 1986, the number of BSN entrants dropped 11 percent between 1986 and 1987. The number of diploma program entrants declined 35 percent between 1986 and 1987, and 25 percent between 1985 and 1986. The number of ADN program entrants declined 1 percent between 1986 and 1987, and 6 percent between 1985 and 1986. The total decrease in entrants to RN programs was 18 percent between 1984 and 1985, and 11 percent between 1985 and 1986.

Mr. President, such numbers will translate in my State into shortages in the work settings in which we need nurses—hospitals, nursing homes, clinics, and doctors offices, to say nothing of the newer settings in which nurses are beginning to work.

A recent report, a Statewide Plan for Nursing, published early this year, concluded that there will be a shortage of from 1,000 to 8,000 RN's and of from 500 to 800 LPN's in 1990 in Iowa. It concluded that, by the year 2000, just 12 years from now, there will be a shortage of from 4,000 to 12,000 RN's and from 1,000 to 2,500 LPN's.

The Report of the Governor's Task Force on Rural Health and Emergency Medical Services, published in November 1987, stressed that "increased problems with shortages of qualified health professionals will impact on availability of services and quality of care. Rural Iowans will be denied access to basic health care services."

My colleagues Senator BURDICK and INOUYE and I are introducing a bill today which we hope will help alleviate the shortages in health care personnel we are experiencing in rural areas. Our bill will establish a grant program in the Department of Health and Human Services from which grants will be made to programs that specialize in preparing health and allied health care personnel.

Those who receive these grants will use the money they provide to fund interdisciplinary training projects designed to do a number of things. These include: Using new methods to train health care practitioners to provide services in rural areas; demonstration of innovative interdisciplinary methods to provide access to health care in rural areas; delivery of health care in rural areas; conducting research on health care issues in rural areas; and designing models for the recruitment of health care providers in rural areas.

The key element in this bill is that applicants to the program will have to demonstrate to the Secretary that the purpose of the activity they contemplate is to establish a long-term collaborative relationship with health care providers in rural areas. They will also have to demonstrate that they have designated a rural health care agency to participate in the training activity they will undertake.

We intend this feature to establish lasting relationships between those who train health and allied health providers and those who are involved in rural areas in health care delivery. We anticipate that this will cause more health care providers to establish themselves in rural areas.

The bill also calls for a study of rural health manpower supply. We anticipate that this study, when completed, will improve our understanding of the dimensions of the supply-demand equation for health care providers in rural areas.

It is the case, Mr. President, that we realize fully that many things affect the supply and demand for health care providers both nationwide and in rural areas. These are things such as reimbursement patterns under medicare, competing career opportunities for women, the demand for nurses in settings other than those in which direct health care is provided. Others surely could be mentioned. These are powerful influences. We are under no illusions that the program which will be authorized by this bill will overcome the negative impact of some of the things I just mentioned.

However, Mr. President, the bill authorizes the Secretary to spend $5 mil-

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lion per year between 1988 and 1991, and, wisely given, we think this money will have a substantial positive effect in our rural communities.

By Mr. KASTEN (for himself, Mr. LAUTENBERG, Mr. STEVENS, and Mr. REID):

S. 2598. A bill to ensure that waste exported from the United States to foreign countries is managed in a manner so as to protect human health and the environment; to the Committee on Environment and Public Works.

WASTE EXPORT CONTROL ACT

● Mr. KASTEN. Mr. President, I rise today to introduce a bill that would make environmental sanity a central consideration in America's waste export policy.

Over the last few years, the United States has been relying more and more on foreign countries for waste disposal facilities. Most often, these countries are chosen to host our wastes because of their lax environmental regulations, which make their disposal facilities much less expensive than our own domestic facilities.

The environmental damage wrought in foreign countries by American waste exports is well documented. One shipment alone—believed to consist largely of Philadelphia incinerator ash—caused notable harm to an island near Conakry, Guinea, causing its trees to shrivel and die.

This particular example was brought to America's attention by Guinea's Ambassador to this country—and it points to another undesirable side effect of American waste exports. When we dump our waste on foreign countries with little concern for their esosystems, the implications for our foreign policy are considerable—and entirely negative. You can't build a house on sand, and you can't build an ally on a heap of toxic trash.

The Waste Export Act of 1988 is designed to eliminate the environmental abuses that result from America's waste exports. The bill does not seek to prohibit export of waste, but rather to insist that the disposal of exported waste live up to American environmental standards.

The bill reminds Americans that we live in the same world as do the foreign dumping grounds of our waste—and that the repercussions of environmental damage are not limited by national boundaries.

Under the new regime envisioned by this bill, waste exporters would be required to apply to the Government for export permits—and in doing so to certify to the Government that the waste will be disposed of "in a manner providing environmental protection consistent with the requirements for transportation, treatment, storage, or disposal of such or similar waste within the United States."

Enactment of this measure is an essential step toward assuring the environmental health of our country, and of the world as a whole. The peoples of the world are in this together; and the Waste Export Control Act of 1988 makes America a fully responsible member of the community of nations—and a full partner in the struggle for a healthy biosphere.

Mr. President, I ask unanimous consent that the full text of the bill be included in the RECORD following my remarks.

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

S. 2598

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

TITLE

SECTION 1. This Act may be cited as the "Waste Export Control Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) exports of waste from the United States to foreign countries are increasing, in several reported instances exported wastes have been disposed of in a manner that would not be permitted in the United States, and many proposals for future waste exports are unsafe;

(2) waste exports contribute to the trade deficit of the United States and are being undertaken to avoid higher treatment and disposal expenses in the United States which are associated with the cost of complying with environmental laws and regulations in the United States;

(3) export of waste generated in the United States should be allowed only on an exceptional basis, and the United States should not allow any person to export waste to a foreign country unless that person has demonstrated, at his expense, that treatment, storage, and disposal of such waste will be conducted in accordance with the environmental standards that would be required if the waste were disposed of in the United States;

(4) existing Federal laws do not provide for any review by the United States of the effects of its exported wastes on the environment of countries to which the waste is sent;

(5) a Federal permit should be required for any person who exports waste to a foreign country; and

(6) uncontrolled export of waste threatens our coasts and oceans through unsound dumping practices.

(b) The purpose of this Act is to require any export of waste from the United States to a foreign country to be conducted in accordance with a permit issued to the person undertaking such export and pursuant to permit terms and conditions which require management of such waste to be in accordance with environmental standards no less strict than those required within the United States.

PROHIBITION

SEC. 3. Except as provided by this Act, no person shall export waste from the United States to a foreign country.

WASTE EXPORT PERMIT

SEC. 4. (a) Any person may apply to the Administrator for permission to export waste to a foreign country. Each application for a permit under this Act shall include the following information which the Administrator may augment or further define by regulation from time to time as he deems appropriate:

(1) the name and address of the exporter;

(2) the composition, quantities, and concentrations of any wastes to be exported;

(3) the names and addresses of any persons on whose behalf the applicant intends to export waste (including persons who are the generators of such waste);

(4) the estimated frequency or rate at which such waste is to be exported, and the period of time over which such waste is to be exported;

(5) the ports of entry of such waste;

(6) a detailed description of the manner in which such waste will be transported, treated, stored, and disposed of in the receiving country;

(7) the name and address of the ultimate treatment, storage, and disposal facility; and

(8) information demonstrating to the satisfaction of the Administrator that waste exported pursuant to such permit will be transported, treated, stored, and disposed of in a manner providing environmental protection no less strict than is provided by the requirements for transportation, treatment, storage, or disposal of such or similar waste within the United States.

(b) Upon a determination by the Administrator, following notice and opportunity for public comment on the application, that such application complies with the requirements of this Act, the Administrator is authorized to issue a permit to the applicant. If during the public comment period the Administrator receives written notice of opposition to issuance of the permit, the Administrator shall not issue the permit unless he has held an informal hearing (including an opportunity for presentation of written and oral views) on whether the permit should be issued. Each permit shall contain such terms and conditions as the Administrator determines necessary to carry out the purposes of this Act and to protect human health and the environment in the United States and other countries.

(c) Any permit under this section shall be for a term determined by the Administrator but in no event to exceed 5 years. Each permit shall specify mechanisms to ensure continuing compliance with this Act and permit requirements, terms, and conditions. Nothing in this Act shall preclude the Administrator from reviewing, modifying, or revoking a permit at any time during its term. At a minimum, such terms and conditions must be equivalent to and consistent with all standards and requirements that would be applicable under the Resource Conservation and Recovery Act and amendments thereto (42 U.S.C. 6901 et seq.), and with all regulations promulgated under that statutory authority, if such waste were to be generated, treated, stored, managed, transported, or disposed of within the territorial United States.

(d) The Administrator shall assess each applicant for a permit and each permittee under this section such fees as are necessary to cover all costs incurred by the United States in processing and issuing such permit and in ensuring that such permittee complies with the terms and conditions of any permit issued.

ENFORCEMENT

SEC. 5. (a) The Administrator may assess any person who violates any provision of this Act a penalty of up to $25,000 for each

day or part thereof of noncompliance for each such violation. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with any such provision.

(b) Any person who exports waste—

(1) without a permit under this Act; or

(2) in knowing violation of any material condition, term, or requirement of a permit issued under this Act;

shall, upon conviction, be subject to a fine of not more than $50,000 for each day or part thereof of violation, or imprisonment not to exceed 5 years, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the maximum punishment may be doubled with respect to both fine and imprisonment.

NATIONAL SECURITY

SEC. 6. (a) The Administrator shall, at the direction of the President based on the national security of the United States, take such action as may be necessary to exempt the export of a waste from the United States from the requirements of this Act.

(b) The Administrator shall issue such regulation or regulations as may be necessary to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. (a) As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "export" means to send waste from the United States to a foreign country;

(3) "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body; and

(4) "waste", except as provided in subsection (b), means the same as the term "solid waste" as defined in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b)(1) For purposes of this Act, a person shall be deemed to be exporting waste if such person, on his own behalf or on behalf of any other person, arranges for waste to be sent to a foreign country.

(2) For purposes of this Act, the term "waste" does not include baled waste paper, metals, plastics, or other materials exported and destined for recycling or reuse, if net payment is received by the exporter from a person in the country of destination, including any intermediaries, who takes receipt of such material. However, a material is "waste" for purposes of this Act irrespective of any recycling or reuse in the country of destination if such material is—

(i) a hazardous waste as defined by subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

(ii) a substance whose storage, treatment or disposal within the United States is regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(iii) mixed municipal solid waste;

(iv) ash or other residue from incineration.

(3) For purposes of this Act, the term "net payment" shall have such meaning as the Administrator shall, by regulation, provide.

SAVINGS CLAUSE

SEC. 8. The requirements of this Act are in addition to requirements of section 3017 of the Solid Waste Disposal Act (42 U.S.C. 6938).●

By Mr. GORE (for himself and Mr. D'AMATO):

S. 2599. A bill to require the Consumer Product Safety Commission to complete rulemaking proceedings regarding all-terrain vehicles in order to promote the safety of consumers; to the Committee on Commerce, Science, and Transportation.

ALL-TERRAIN VEHICLE CONSUMER PROTECTION ACT

● Mr. GORE. Mr. President, today, I am introducing legislation to provide the Consumer Product Safety Commission with additional authority regarding all-terrain vehicle safety. I am delighted to be joined in this effort by Senator D'AMATO, who has been involved in this issue for some time.

Although they may look innocuous, ATV's really are very complex machines that require unique handling capabilities. They have been linked to over 1,000 deaths and more than 350,000 injuries treated in hospital emergency rooms since 1982. The injuries caused by ATV's are often severe, resulting in quadriplegia, ruptured organs, and skull or bone fractures. Tragically, children are often the victims of ATV accidents. In fact, nearly one-half of the injuries and deaths have been caused to children under the age of 16. As the father of four children, I am particularly concerned about the threats to children's safety that are posed by ATV's.

As many of you know, the CPSC and the ATV industry have entered into a consent decree under which the ATV manufacturers will take certain steps to provide notice, warning and training to some purchasers of ATV's. These steps are long overdue. I hope that they will yield safety benefits for American consumers, and am pleased that they are now in place.

However, I believe that more needs to be done to guarantee consumer safety and awareness regarding ATVs, as well as to reimburse individuals who purchased ATVs because they were led to believe ATVs were safe, but now know that they can be very dangerous machines. Therefore, the legislation I am introducing provides the CPSC with new statutory authority and guidelines to continue it's efforts to promote ATV safety.

The legislation would require the CPSC to begin four rulemaking proceedings. The CPSC would consider whether the sale of used three-wheel ATV's by distributors and dealers should be precluded. In addition, the CPSC would determine whether a reasonable voluntary refund should be provided to individuals who purchased three-wheel ATV's or an ATV designed, marketed or purchased for use by a child under the age of 16. Let me emphasize that this would be a voluntary refund program, to be used by anyone who wishes to return their ATV for a reasonable reimbursement.

Hands-on training would also be considered by the CPSC, to be made available free of charge to all prior purchasers and their immediate families. This would build on the consent decree, under which free training is provided only to those who bought an ATV since January 1, 1987. Finally, the CPSC would establish performance and design standards to be applied to all ATV's, together with specifications regarding the appropriate age for safely operating ATV's of various engine and frame sizes.

There are those who will suggest that taking this action now is unwise, that we should wait to see if the consent decree resolves the matter. With 7,000 injuries each month and over 170 deaths per year, we cannot afford to delay. We waited for the CPSC and industry to act, and they did not do so until far too late. It is in part because of this extraordinary delay that this additional Congressional action must be taken. This legislation will help to remove ATV's from the marketplace by affording consumers an option for returning them. In addition, it will provide free training to all those who will continue to use ATV's, so that they will be more safely operated.

The legislation is supported by a broad coalition of interests, including the National Association of Attorneys General, the American Academy of Pediatrics, the National Safety Council, the Consumer Federation of America, Consumers Union, Public Citizen, the U.S. Public Interest Research Group, and others.

I invite our Senate colleagues to join in this effort to protect American consumers.●

● Mr. D'AMATO. Mr. President, I rise as an original cosponsor of the All-Terrain Vehicle Consumer Protection Act of 1988. This bill will help to reduce the unacceptably high number of deaths and injuries on all-terrain vehicles. It also is designed to refine the basic elements of S. 2016, which I introduced on January 28, 1988, and delete portions made moot by subsequent court action.

I am pleased to join Senator GORE, Chairman of the Consumer Subcommittee of the Senate Commerce Committee, in this bipartisan effort to secure refunds for consumers who purchased 3-wheeled ATV's, or adult-sized ATV's for use by children under age 16. I believe that a refund program is the only effective way to get ATV's out of the hands of children who are being killed and maimed in alarming numbers. Consumer participation in the refund program would be voluntary. Our bill directs the U.S. Consumer Product Safety Commission (CPSC) to engage in a rulemaking process to address consumer refunds.

The CPSC's latest data show that there have been 1,037 "reported" ATV

deaths since 1982. Sixty-nine deaths were reported in New York State, second only to the 75 deaths reported in California. CPSC describes its own data as "a minimum count of ATV related deaths" because not all deaths have been reported. During 1987, 220 ATV deaths were reported to CPSC; however, CPSC estimates that 367 ATV deaths may have occurred. CPSC also estimates that there may have been over 1,000 ATV deaths just in the 3-year period from 1985 through 1987. Moreover, despite the April 1988 settlement of CPSC's lawsuit against the ATV manufacturers, the safety agency's experts state that "estimated deaths are not expected to decrease in the next few years."

Children under the age of 16 account for 42 percent (or 438) of the total ATV deaths: children under the age of 12 account for 19 percent (or, 193) of the deaths. It is clear that the recent settlement of the Federal Government's imminent hazard case against the five ATV manufacturers (Honda, Kawasaki, Suzuki, and Yamaha, and one American company, Polaris) is not sufficient to protect consumers. Beyond the personal suffering involved, the costs to society exceed $1 billion per year. More needs to be done.

Over the past year I have spoken out against the Department of Justice, and the CPSC for failing to secure consumer refunds for ATV manufacturers. In March of this year, acting as amicus curiae, I filed legal briefs in the U.S. District Court for the District of Columbia opposing the preliminary and final settlement of this case. On April 18, 1988, I joined with a group of other amici including 32 State Attorneys General, public citizen, the U.S. Public Interest Research Group (PIRG), the American Academy of Pediatrics, the American Public Health Association, and the Consumer Federation of America, and argued before Judge Gesell urging him to disapprove the settlement, or least make some key changes.

Judge Gesell refused to approve the proposed final settlement until a provision was deleted that effectively would have stopped the Federal Government—forever—from again seeking consumer refunds if the settlement fails to work. Judge Gesell had the parties limit that ban to a period of 2.5 years—under December 1990. Also, at the urging of the amici, a provision was dropped that would have required the Federal Government to come up with "new and substantial evidence" in order to seek more protection for consumers. I was gratified that these changes were made; however, we cannot afford to wait until the end of 1990 to start the process again. Too many children will die or be seriously injured.

With the exception of Commissioner Anne Graham, who voted against the final settlement of the Government's case against the ATV manufacturers, the CPSC under its current leadership has failed in its mission to protect the public from the imminent and unreasonable risks associated with ATV's. This settlement is a wolf in sheep's clothing. Congress must now act responsibly to fill this gap.

I intend to work with Senator GORE and other interested Senate colleagues effectively to remove 3-wheeled ATV's and adult sized ATV's from the hands of children. Other consumers threatened by the imminent hazards presented by 3-wheeled ATV's, should be able to secure refunds for these vehicles. Other important portions of our bill require CPSC to engage in rulemakings to: First, ban the sale of 3-wheeled ATV's; second, provided free hands on training to all ATV purchasers (not just for those who purchased in 1987 and thereafter, as per the settlement); and third, provide for performance and design standards for ATV's.

I urge my Senate colleagues to cosponsor this bill and work for its adoption by the Senate.

Mr. President, I ask unanimous consent to have a copy of CPSC's latest State-by-State death statistics printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

DEATHS ASSOCIATED WITH 3- AND 4-WHEELED ALL TERRAIN VEHICLES REPORTED FOR THE PERIOD JAN. 1, 1982 THROUGH MAR. 21, 1988

State	Frequency	Percent	Cumulative Frequency	Cumulative Percent
Alaska	33	3.2	33	3.2
Alabama	26	2.5	59	5.7
Arkansas	39	3.8	98	9.5
Arizona	18	1.7	116	11.2
California	75	7.2	191	18.4
Colorado	3	.3	194	18.7
Connecticut	4	.4	198	19.1
Florida	30	2.9	228	22.0
Georgia	14	1.4	242	23.3
Iowa	13	1.3	255	24.6
Idaho	12	1.2	267	25.7
Illinois	21	2.0	288	27.8
Indiana	22	2.1	310	29.9
Kansas	15	1.4	325	31.3
Kentucky	19	1.8	344	33.2
Louisiana	35	3.4	379	36.5
Massachusetts	13	1.3	392	37.8
Maryland	4	.4	396	38.2
Maine	12	1.2	408	39.3
Michigan	55	5.3	463	44.6
Minnesota	35	3.4	498	48.0
Missouri	25	2.4	523	50.4
Mississippi	30	2.9	553	53.3
Montana	6	.6	559	53.9
North Carolina	21	2.0	580	55.9
North Dakota	12	1.2	592	57.1
Nebraska	9	.9	601	58.0
New Hampshire	12	1.2	613	59.1
New Jersey	10	1.0	623	60.1
New Mexico	14	1.4	637	61.4
Nevada	9	.9	646	62.3
New York	69	6.7	715	68.9
Ohio	34	3.3	749	72.2
Oklahoma	9	.9	758	73.1
Oregon	14	1.4	772	74.4
Pennsylvania	49	4.7	821	79.2
Rhode Island	2	.2	823	79.4
South Carolina	3	.3	826	79.7

DEATHS ASSOCIATED WITH 3- AND 4-WHEELED ALL TERRAIN VEHICLES REPORTED FOR THE PERIOD JAN. 1, 1982 THROUGH MAR. 21, 1988—Continued

State	Frequency	Percent	Cumulative Frequency	Cumulative Percent
South Dakota	4	.4	830	80.0
Tennessee	34	3.3	864	83.3
Texas	34	3.3	898	86.6
Utah	21	2.0	919	88.6
Virginia	17	1.6	936	90.3
Vermont	7	.7	943	90.9
Washington	20	1.9	963	92.9
Wisconsin	50	4.8	1,013	97.7
West Virginia	23	2.2	1,036	99.9
Wyoming	1	.1	1,037	100.0

By Mr. MATSUNAGA:

S. 2600. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Finance.

EMPLOYMENT PERFORMED BY EMPLOYEES OF CERTAIN EDUCATIONAL INSTITUTIONS

Mr. MATSUNAGA. Mr. President, I am today introducing legislation to allow the States to extend unemployment compensation benefits to nonprofessional school employees between academic terms. Congressman ROBERT MATSUI of California has introduced similar legislation (H.R. 4178) in the House.

Mr. President, the Social Security Amendments Act of 1983 (Public Law 98-21) contained a provision requiring that the States deny unemployment compensation benefits to nonprofessional educational service employees between academic years or terms if the employees have a "reasonable assurance" of returning to work in the next academic year. Prior to the adoption of this provision, States were granted the option of granting or denying unemployment compensation benefits to such workers during these periods.

Mr. President, the legislation I am introducing today would reinstate the State option to either provide or deny unemployment compensation benefits between academic terms to nonprofessional educational workers such as cafeteria workers, custodians, crossing guards, and secretaries. The current blanket denial of benefits to nonprofessional educational employees is particularly harmful to such workers because they are among the lowest paid workers in the United States. With the exception of educational employees and professional athletes, all other employees with major seasonal occupations are eligible to apply for unemployment compensation benefits. In addition, adequate mechanisms already exist within the Federal-State unemployment compensation system for denying unworthy benefit claims. Upon the enactment of this legislation, nonprofessional educational employees would have to satisfy the eligi-

bility requirements set forth under State law for receiving unemployment compensation benefits.

Mr. President, this legislation is consistent with the basic objective of the unemployment compensation program which is to provide temporary protection for qualified workers who lose their jobs until they may be rehired or find new employment. This legislation would remove an inequity in our current program and I therefore urge my colleagues to support this much needed legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2600

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

SECTION 1. EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS.

(a) IN GENERAL.—Clauses (ii)(I), (iii), and (iv) of section 3304(a)(6)(A) of the Internal Revenue Code of 1986 are each amended by striking out "shall be denied" and inserting in lieu thereof "may be denied".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

By Mr. HEFLIN (for himself, Mr. DECONCINI, Mr. KENNEDY, and Mr. SPECTER):

S. 2601. A bill to amend section 371 of title 28, United States Code, to allow a Federal judge who is at least 60 years of age and has completed 20 years of service to retire from regular active service; to the Committee on the Judiciary.

RETIREMENT OF JUDGES FROM REGULAR ACTIVE SERVICE

Mr. HEFLIN. Mr. President, today I a am introducing legislation along with several of my colleagues on the Senate Judiciary Committee, which will permit article III judges to retire from active service and assume senior status between the ages of 60 and 65, if the judge's age and years of service equals 80.

In 1984, Congress amended title 28, United States Code, section 371 to provide a more reasonable system of retirement of Federal judges which took into account a judge's age and years of service. This is referred to as a modified rule of 80. Currently, a judge between the ages of 65 and 70, whose age and years of service total 80, may elect to retire on salary under section 371(a) of title 28, or to assume senior status, under section 371(b).

The legislation I am introducing today would allow an article III judge to assume senior status at an earlier age, with more years of service. It permits the election of senior status between the ages of 60 and 65, if a judge's age and years of service equals 80.

For example, if a judge is 60 years old and has served for a period of 20 years, that judge would be eligible to elect senior status. Likewise, a judge who is 64 years old with 16 years of service would also be eligible for such election. This legislation does not amend section 371(a) in any way.

When an article III judge takes senior status, a vacancy is created, and a successor can be appointed. At the same time, the court is able to rely upon the expertise and experience of a pool of senior judges who continue to carry a considerable caseload. This experienced pool of senior judges may lessen the need to create new judgeships, which carries a significant cost.

I also believe that this legislation is more equitable for those judges who enter judicial service at an earlier age. Take for example 2 judges who entered service on the same date 15 years ago, 1 at age 50, the other at age 35. The first judge could retire or take senior status after 15 years of service, but the second judge would be required to serve twice as long—30 years for the same entitlement.

Let me restate, that this legislation does not amend section 371a), dealing with retirement, but would allow judges to seek senior status at an earlier time.

This legislation is supported by the American Bar Association, and the Judicial Conference of the United States has supported similar proposals.

It is my belief that this bill will confer a great benefit upon the country at a very minimal cost and I would ask my colleagues to lend their support to this legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD after the conclusion of my remarks.

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

S. 2601

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

SECTION 1. RETIREMENT OF JUDGES FROM REGULAR ACTIVE SERVICE.

(a) AFTER ATTAINING AGE 60 AND AFTER 20 YEARS OF SERVICE.—Section 371 of title 28, United States Code, is amended by inserting after subsection (d) the following:

"(e) Any justice or judge may retain the office but retire from regular active service under subsection (b), without regard to the provisions of subsection (c), if he or she has attained the following age and service requirements:

"Attained Age:	Years of Service
60	20
61	19
62	18
63	17
64	16.".

(b) TECHNICAL AMENDMENTS.—Section 371 of title 28, United States Code, is amended—

(1) in subsection (b) by striking out "Any" and inserting in lieu thereof "Subject to the provisions of subsection (e), any"; and

(2) in subsection (c) by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (e), the".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 apply to any justice or judge of the Untied States appointed to hold office during good behavior who retires on or after the date of the enactment of this Act.

By Mr. MITCHELL (for himself, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 2602. A bill to establish the regional marine research trust fund, and for other purposes; to the Committee on Environment and Public Works.

REGIONAL MARINE RESEARCH TRUST FUND

● Mr. MITCHELL. Mr. President, today I am introducing legislation to establish a national trust fund to support research of our marine and coastal waters.

I am very pleased that Senators CHAFEE and LAUTENBERG are joining me in introducing this important legislation.

Reports of environmental problems in marine waters have become increasingly frequent. We have heard about beach closings in New Jersey, pollution of Boston Harbor, a large dead zone in the Gulf of Mexico, closing of shellfish areas, high levels of toxics in Puget Sound, and the death of dolphins in the mid-Atlantic. Just last month, we learned of a new threat to the environmental quality of coastal waters—acid rain.

Over the past several months, the Senate Subcommittee on Environmental Protection, which I chair, has held a series of hearings to review environmental trends and conditions in marine and coastal waters around the Nation.

Witnesses at the hearings agreed that coastal waters face significant environmental problems. the Congressional Office of Technology Assessment offered the stark conclusion that—

In the absence of additional measures to protect our marine waters, the next few decades will witness new or continued degradation in many * * * coastal waters around the country.

In response to this problem, I developed and introduced the Marine Research Act of 1988, S. 2068. I am pleased to report that the full Environment and Public Works Committee reported the Marine Research Act on June 23.

This legislation is intended to expand and strengthen research and assessment of marine and coastal waters. A better marine research program will help us develop the capability to identify and prevent threats to the marine environment before they

grow to be unmanageable and costly problems.

The bill provides general authority to establish 10 regional marine research programs. The basic objective of the marine research programs will be to provide a regional focus for planning, coordinating, and conducting marine scientific research. The regional research programs will be developed by the existing marine research institutions working in each region, including universities, State agencies, and private laboratories.

A key element of the bill is a provision for development of a 3-year research plan which sets the goals and priorities for research and monitoring in the marine and coastal waters of the region. Regional research plans will address projects ranging from basic oceanographic research to more specific, applied research activities.

The bill also provides authority for the regional programs to conduct baseline monitoring and assessment of marine environmental quality. Programs are to submit general reports to the State Governors and the public on trends and conditions in the region.

The regional programs will be eligible for support grants of $3 million per year. The bulk of this funding, at least $2.5 million, will be used directly by research organizations to carry out the research and related activities identified in the 3-year research plan. Programs may use up to $500,000 for activities including development of plans, sponsoring technical seminars, and publication of reports and studies.

The bill provides for a total authorization of $33 million. This figure includes $3 million for each region except the tropical region, which is eligible for $1.5 million and the Gulf of Mexico region which is eligible for $5 million, and $1 million to support the activities of the Federal board.

Throughout the development of this legislation, I have heard the concern that we assure a stable and reliable funding base for this research program. A stable funding base would encourage long-range planning and projects and would provide a solid foundation for bringing research institutions into the research planning process.

The legislation we are introducing today provides for a marine research trust fund to support the research program called for in the Marine Research Act. The trust fund would be supported through both direct appropriations and the excess funds in the existing trust fund established in title III of the Outer Continental Shelf Lands Act Amendments of 1978.

The existing trust fund is to provide compensation in the event of environmental damage from activities on offshore lands. The fund is designed to carry a minimum of $100 million and a maximum of $200 million. Revenue for the fund is provided by an existing fee of 3 cents per barrel on oil produced on the Continental Shelf.

At this time, fees and earned interest have generated a balance of over $120 million. The fund is growing at the rate of about $24 million per year—$12 million from fees and about $12 million from interest. No claims have been registered against the fund in the over 8 years of its existence.

In its most recent report to Congress, the Coast Guard has proposed to use authority in the law to administratively remove the fee on the grounds that continued collection will bring the fund over the maximum level in the near future.

The marine research trust fund proposed in this legislation would be funded through a diversion of fees and interest above the $200 million maximum level of the exisiting fund to a new marine research trust fund. For technical reasons, diversion would actually start at $195 million.

The diversion from the existing fund would begin in about 2.5 to 3 years and would provide about $25 to $35 million a year for marine research. Any additional funding needed in the nearterm or on an ongoing basis to meet the authorization in the Marine Research Act could be provided through appropriations.

This approach to funding of marine research has two key advantages—it makes use of an existing fee and it applies the revenue to a purpose which is clearly related to the fee.

Passage of this legislation would have several indirect effects. It would have the effect of removing the administrative discretion to suspend the fee, thereby assuring that it will remain in place if needed to replenish the fund. And, it effectively moves the minimum balance in the existing fund from $100 million to about $200 million, thereby increasing the amount on hand in the event of a claim.

I am convinced that responding to the threats to the marine environment will require expanding and strengthening our Marine Research Program. And, I am convinced that a trust fund will provide the stable and reliable funding base which is so important to long range research of complex environments.

While the funding mechanism suggested in this legislation has advantages, some of my colleagues may see disadvantages to this approach or may have suggestions for alternative approaches.

In introducing this bill, I hope to begin a discussion of the best approach to funding the marine research proposed in the Marine Research Act. I look forward to hearing the views of my colleagues on this subject. And, I expect that we may find ways to revise and improve this legislation.

As this legislation develops, we need to be especially careful to assure full coordination with any legislation revising the Federal role in responding to oil spills in marine waters. As oil spill legislation advances in the Congress, I will work to assure that we address the need to fund marine research and to develop the best possible Federal oil spill legislation.

In conclusion, Mr. President, there is growing evidence of threats to the quality of the marine environment. We must assess the seriousness and extent of this problem and consider appropriate response measures. An important first step in protecting the marine environment is to strengthen and expand marine research at the regional level. The legislation I am introducing today offers a stable and reliable funding base to support this important effort.

I hope my colleagues will join me in supporting this legislation and working to improve our understanding of our rich, diverse marine resources.

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. 2602

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

SECTION 1. REGIONAL MARINE RESEARCH TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Regional Marine Research Trust Fund", consisting of such amounts as may be transferred to such Trust Fund as provided in this section or credited to the Trust Fund under subsection (f).

(b) TRANSFERS TO TRUST FUND.—The Secretary of the Treasury shall transfer monthly into the Regional Marine Research Trust Fund any unobligated balance of the Offshore Oil Pollution Compensation Fund in excess of $195,000,000.

(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Regional Marine Research Trust Fund such additional sums as may be appropriate to make the expenditures referred to in subsection (d).

(d) EXPENDITURES.—Amounts in the Regional Marine Research Trust Fund shall be available, as provided in appropriation Acts, to the Regional Marine Research Oversight Board for the purposes of making expenditures to carry out sections 404, 405, 406, 407, and 408 of the Marine Research Act of 1988, but not in excess of $33,000,000 for any fiscal year.

(e) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Regional Marine Research Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on the expected condition and operations of the Trust Fund during the next 5 fiscal years.

(f) INVESTMENT.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Regional Marine Research Trust Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(g) CONFORMING AMENDMENTS TO OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978.—

(1) Section 302(c) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(c)) is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) transfers to the Regional Marine Research Trust Fund.".

(2) Section 302(d)(2) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(2)) is amended by striking out "not less than $100,000,000 and not more than".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.●

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 2604. A bill to authorize the conveyance of the vessel, *Lane Victory;* to the Committee on Commerce, Science, and Transportation.

CONVEYANCE OF VESSEL, "LANE VICTORY"

Mr. CRANSTON. Mr. President, today I am pleased to introduce legislation authorizing the Secretary of Transportation to convey the right, title, and interest of the U.S. Government in the vessel, *Lane Victory* to a nonprofit corporation for use as a merchant marine memorial.

The U.S. Merchant Marine Veterans of World War II is a nonprofit organization dedicated to educating the American people about the part played by our merchant marine in World War II. The organization proposes to establish a permanent memorial museum in Los Angeles Harbor, dedicated to the memory of the thousands of merchant seamen who lost their lives during World War II.

Mr. President, many U.S. citizens are unaware of the fact that approximately 7,000 merchant mariners perished in the war and over 600 were prisoners of war in Europe and the Orient.

The merchant marine veterans have expressed the desire to assume full financial and operational responsibility for the vessel *Lane Victory,* which is a World War II merchant vessel and is presently lying in the reserve fleet at Suisan Bay near San Francisco. They have agreed to transport the ship at their own expense to the Los Angeles Harbor where it will be permanently docked and used as a memorial to pay tribute to those who lost their lives in the service of their country.

This Nation owes an outstanding debt to the merchant marine for its contribution to victory in World War II—a memorial to the courage and self sacrifice of those men seems most appropriate and long overdue.

I ask unanimous consent that my statement and the text of the bill be entered into the RECORD at this point.

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

S. 2604

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

SECTION 1. (a) Notwithstanding another law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in the vessel Lane Victory, United States official number 248094, to a nonprofit corporation (referred to in this Act as the "recipient") for use as a merchant marine memorial if—

(1) the recipient agrees to use the vessel as a non-profit merchant marine memorial museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a merchant marine memorial museum the recipient will—

(A) at the discretion of the Secretary, reconvey the vessel to the Government in as good a condition as when it was received from the Government, except for ordinary wear and tear; and

(B) deliver it to the Government at the place where the vessel was delivered to the recipient;

(5) the recipient agrees to hold the Government harmless for any claims resulting from exposure to asbestos after conveyance of the vessel, except for claims against the Government arising from exposure during the use by the Government under paragraphs (3) or (4) of this subsection; and

(6) the recipient agrees to any other conditions the Secretary considers appropriate.

(b) If a conveyance is made under this Act, the Secretary shall deliver the vessel to the recipient at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) The Secretary also may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to assist in placing the Lane Victory in operating condition.

SEC. 2. This Act does not require the Secretary to retain this vessel in the reserve fleet for a period longer than two years from the date of enactment of this Act.

By Mr. KENNEDY (for himself, Mr. SIMPSON, and Mr. SIMON):

S. 2605. A bill to amend the Immigration and Nationality Act to extend for 3 years the authorization of appropriations for refugee assistance, and for other purposes; to the Committee on the Judiciary.

REFUGEE RESETTLEMENT EXTENSION ACT

Mr. KENNEDY. Mr. President, today Senator SIMPSON, Senator SIMON, and I are introducing a bill to reauthorize the refugee assistance programs of the Refugee Act of 1980. Spending authority for these programs expires at the end of this fiscal year, so it is our hope that the Senate will be able to act on this noncontroversial, but extremely important, authorization legislation later this summer.

This bill is a tribute to all those who work so selflessly to assist refugees to rebuild their lives in America. It seeks to assure stability and continuity in a program which has undergone considerable fiscal changes in recent months. Therefore, we propose no major changes and seek to promote greater stability.

The bill provides for a 3-year reauthorization. It calls for greater coordination between the various actors in refugee resettlement; it requires attention to adequate funding for the refugees we admit; and it streamlines certain State funding mechanisms. It also would assure that the annual consultations between the President and Congress on refugee admissions ceilings occur well in advance of the fiscal year in which the refugees are actually to be admitted.

Mr. President, I do want to indicate three additional items which I may pursue in the course of this bill's consideration.

First, Senator SIMPSON and I are working on a proposal to provide for a pilot program to address the long-term dependency of certain Hmong refugees from Laos. This group is having a particularly difficult time in certain parts of the United States in their resettlement.

Second, several months ago, I asked the General Accounting Office to study the cost efficiency of permitting consular officers, as well as Immigration Service officers, to make refugee determinations overseas. Currently, only Immigration officers can decide who is a refugee. It has seemed to me for some time that it makes little sense to fly Immigration Service officials to remote areas of the world to make individual refugee determinations where U.S. consular officials are already present.

But before proceeding, I thought we should first see if the GAO could shed some light on this proposal. The GAO study should be available within a couple of weeks. Depending upon its findings, I may be pursuing an amendment in this area.

Finally, Senator BOSCHWITZ has some insightful proposals regarding continuing medical assistance for refugees. These require further development. But both Senator SIMPSON and I are working with him on this issue, and I am hopeful we will have something ready by the time the bill is considered.

Mr. President, all Americans can be proud of the role our country has played in providing a new home to thousands of refugees in recent years. I believe this bill meets the high standard of commitment which the American people historically have shown toward the resettlement of the persecuted.

Mr. SIMPSON. Mr. President, I am very pleased to join Senator KENNEDY and Senator SIMON in introducing legislation to reauthorize domestic settlement activities of the U.S. Refugee Program.

The legislation would provide authorizations of appropriations for 3 years, beginning with fiscal year 1989. It provides for Federal reimbursement of State cash and medical assistance costs, social service programs to aid refugee assimilation and self-sufficiency, medical screening of newly arriving refugees, and reimbursement of certain State costs due to the incarceration of Mariel Cubans.

In addition, the legislation makes certain changes in the Domestic Resettlement Program's rules and procedures: Some of the extensive auditing requirements of voluntary agency activities have been deleted, at the suggestion of the General Accounting Office; incentives for improved consultation with State governments concerning refugee placement policy have been inserted; and a new requirement for matching proposed refugee admission levels with funds to pay for resettlement of that number of refugees has been created. I am confident that these changes will improve the operation of our Domestic Refugee Program.

I and other subcommittee members will be working on specific provisions to assist refugee groups that have experienced particularly severe welfare dependency problems. We intend to have these proposals drafted in time for the Judiciary Committee's consideration of the legislation.

Finally, let me compliment my subcommittee colleagues for the reasonable, bipartisan approach taken to this bill. U.S. refugee policy is a nonpartisan issue, and I believe we best serve the American public and national interest when we approach the issue in this manner. I commend this legislation to my colleagues.

By Mr. SYMMS:

S. 2608. A bill to repeal the requirement that taxpayers include on an income tax return a tax identification number for claimed dependents who have attained the age of 5 years; to the Committee on Finance.

TAXPAYER IDENTIFICAITON NUMBERS

● Mr. SYMMS. Mr. President, I rise today to introduce a bill which will correct a gross inequity perpetuated by the increasing amount of Federal interference in the lives of the American people. This bill would repeal the requirement that children having attained the ripe old age of 5 be issued a Social Security number—for tax identification.

Social Security numbers were designed in the 1930's as a way to administer a supplemental retirement fund. They were never intended to be used as a method for monitoring and regulating taxation—nor should they be. Yet Congress time and time again expands the Federal bureaucracy by linking widely disparate programs together.

This bill would be the first step toward untangling the intricate web of government intervention that is increasingly pervading all walks of life. Let's free our children of an Orwellian number system, and strike a blow for limited government.●

By Mr. DANFORTH (for himself, Mr. BOREN, Mr. DURENBERGER, Mr. BOND, Mr. BAUCUS, Mr. KARNES, Mr. RIEGLE, Mr. HEINZ, Mr. WALLOP, Mr. BURDICK, Mr. DASCHLE, Mr. KASTEN, Mr. QUAYLE, Mr. PRYOR, Mrs. KASSEBAUM, Mr. SYMMS, Mr. MCCLURE, Mr. PRESSLER, Mr. WARNER, and Mr. MCCONNELL):

S. 2609. A bill to amend the Internal Revenue Code of 1986 to provide that the special rule for proceeds from livestock sold on account of drought apply to livestock used for draft, breeding, dairy or sporting purposes; to the Committee on Finance.

DROUGHT TAX RELIEF FOR OWNERS OF LIVESTOCK

● Mr. DANFORTH. Mr. President, today I am pleased to join Senator BOREN and other colleagues in introducing a bill to extend the special rules available for proceeds from livestock sold on account of drought to livestock used for draft, breeding, dairy, or sporting purposes.

Farmers in Missouri and other States around the country are experiencing the worst drought in 50 years. Farmers are watching crops burn in the field, and pastureland has completely dried up. Missouri is so dry that many communities are canceling Fourth of July fireworks celebrations because of the danger of grass and forest fires.

The latest crop and weather information shows that 81 percent of Missouri pastures are rated very poor, and 19 percent are rated poor. There is not a single acre of pastureland in Missouri that has better than a poor rating. Farmers cannot support livestock with these conditions. In fact, many livestock producers are beginning to liquidate their herds because of the shortage of pasture and the high price of feed. With each passing day, more farmers are compelled to sell their foundation herds because they cannot afford to feed these animals.

Currently, section 451(e) of the Internal Revenue Code provides that income from the sale or exchange of livestock solely on account of a drought may at the election of the taxpayer be deferred until the following taxable year. This election is available to taxpayers in areas designated as eligible for assistance by the Federal Government—regardless of whether the designation is made by the President or by an agency or department of the Federal Government—who use the cash method of accounting.

Unfortunately, this election is not available for livestock used for draft, breeding, dairy, or sporting purposes. This bill extends this special tax treatment to such livestock. Thus, if a Missouri farmer normally sells 100 of his cattle annually but due to qualifying drought conditions is forced to sell 150 head this year, including 50 of his breeding cattle, the income from the sale of the additional 50 head will qualify for income deferral under this bill. This is of course in addition to another provision in the Internal Revenue Code, section 1033(e), which allows nonrecognition of gain for the income from the sale of livestock sold solely on account of drought which is reinvested in similar property.

Mr. President, this measure is extremely important to my own State of Missouri, and to all of the drought stricken States in the country. Missouri ranks second in the Nation in numbers of cow/calf operations and sixth in number of dairy operations. Missouri cattle farmers had a gross income in 1987 of $983 million. Yet this year they cannot even find enough feed to sustain their herds. Given the severity of the drought, the Government must do everything possible to grant relief to the farmers who are suffering from this natural disaster. That is why I am offering this measure today. It is not a solution to the drought, but it is a positive step that Congress can take to help those farmers who have been forced to liquidate their herds.

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. 2609

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

SECTION 1. PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) IN GENERAL.—Paragraph (1) of section 451(e) of the Internal Revenue Code of 1986 (relating to special rule for proceeds from livestock sold on account of drought) is amended by striking out "(other than livestock described in section 1231(b)(3))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after December 31, 1987, in taxable years ending after such date.●

● Mr. KARNES. Mr. President, under section 451(e) of the Internal Revenue Code, livestock producers, using cash method accounting, are allowed to include income from the sale of livestock in next year's income if they are forced to sell because of drought. Livestock producers can use this provision only if they are not able to sell the livestock as a normal business practice, but due to the drought conditions.

The problem with this tax provision is the 1231(b)(3) exception. Under this exception, livestock held by the producer for draft, breeding, dairy, or sporting purposes are excluded from the drought provisions of section 451(e).

Mr. President, currently the agricultural sector of the economy is experiencing rapid and unforeseen changes in market conditions because of the drought. Livestock prices are dropping rapidly at the same time grain prices are skyrocketing. The skyrocketing grain prices are drawing down stocks owned and managed by the USDA as well as existing free stocks.

According to the Agriculture Department, the current pace of feed stock sales could exhaust the Government's supply of soybeans, a protein source used to feed livestock, by July. The corn stockpiles could be exhausted from Government stocks by October. When those stocks are exhausted it will be very difficult for the Federal Government to affect the prices of those commodities used to feed livestock. The elimination of Government grain stockpiles could mean volatile and unpredictable livestock markets created by drought-driven escalation of the prices of feed.

Mr. President, the market is currently being flooded by livestock from producers who fear that they will not have enough feed. This fear extends not only to the producers who had planned to send their livestock to market for slaughter, but also, to the producers of draft, breeding, dairy, and sporting animals as well. Mr. President, I do not know when feed prices will stabilize, nor is it likely that the livestock producers know.

Livestock producers have been put in a precarious situation by the drought. The cattlemen and women of this country are proud of the fact that they have not come to Washington seeking a handout from the Government. Even now, as the effects of the drought throw their future into doubt, cattle producers are coping largely on their own. I believe that allowing those whose herds are decimated by the drought to have another option available, other than the involuntary conversion provisions of the code, is the only fair thing to do.●

● Mr. RIEGLE. Mr. President, today I am pleased to cosponsor legislation that will offer needed tax relief to farmers who are forced to sell livestock on account of the drought. Under current law, the Internal Revenue Code allows many farmers who sell or exchange livestock solely on account of drought to defer the income on the sale until the following year. Unfortunately, this relief is limited as it applies to the sale of livestock used for draft, breeding, dairy, or sporting purposes. While these taxpayers may make use of another tax benefit if proceeds from the sale of the livestock are reinvested, this bill will extend the drought relief provision in order to give equal treatment to all types of livestock.

We now recognize that there are certain special instances where it is necessary to allow a taxpayer to defer income until the following year. Internal Revenue Code section 451 provides this tax treatment to the extent that a person is forced to sell more livestock than they usually would under normal business practices. This does not allow them to get out of paying their fair share of the tax burden, but allows them to pay it at a time when they are not under extreme hardship. In order to qualify for this special tax treatment, the taxpayers must be in the areas specifically designated as eligible for Federal drought assistance and must use the cash method of accounting.

Mr. President, it only seems fair that farmers who raise dairy cows or breeder cattle, and who are suffering from the consequences of severe drought, should have the option of using the same tax assistance that is given to individuals who raise other types of livestock. Michigan is a State with a diverse agricultural base. However, a drought such as that being experienced this year can affect the whole range of agricultural products grown and raised in our country. I believe that this legislation providing drought tax relief is a needed companion to another bill which I have introduced, the Emergency Agricultural Relief Act of 1988, which would reinstate an emergency assistance program that was enacted in 1986. I hope that quick action will be taken on this legislation to give equal tax treatment to all types of livestock farmers.●

By Mr. CHAFEE:

S. 2610. A bill to amend the Safe Drinking Water Act to control lead in drinking water; to the Committee on Environment and Public Works.

LEAD CONTAMINATION CONTROL ACT

● Mr. CHAFEE. Mr. President, today I am joining with Senator DURENBERGER to introduce legislation in the Senate to protect our children from the adverse health effects of lead poisoning.

We have known since the time of the Romans that lead is a dangerous poison. Yet here we are, in 1988, confronting the problem of lead entering our drinking water supply from lead pipes and lead in drinking water coolers. This is not a problem, like radon, which we have little control over. This is a problem we have created ourselves by using lead in places where it actually comes in contact with our drinking water.

Last December I testified before the House Subcommittee on Health and the Environment on the general problem of lead in drinking water. In particular the hearing focused on the suspicion that lead in certain water coolers could pose a health hazard. Well this is no longer a suspicion. I am shocked to learn that two-thirds, 8 out of 12, of the Halsey Taylor water coolers tested by the Environmental Protection Agency contained lead-lined tanks. Water from one of these tanks contained lead levels 100 times greater than the EPA proposed standard.

It is frightening to think that an unknown number of these tanks could be dispensing water at this very moment to an unsuspecting school-age child. The problem takes on even more urgency when you stop to think about the water use patterns in schools. Water will often sit in water coolers during school periods, or overnight, or even over weekends and vacations. This allows the lead time to leach into the water at alarmingly high concentrations.

Insult was added to injury when, in response to a congressional inquiry, Halsey Taylor indicated that it "never designed or manufactured a water cooler that used a lead-lined or lead tank." Unfortunately independent testing has proven this statement wrong. Now Congress and the executive branch must act quickly to protect public health, especially the health of our children, from this threat.

The legislation we are introducing today will require EPA to ban the manufacture or sale of drinking water coolers containing lead which comes in contact with drinking water supplies, and will initiate a Federal program to help schools identify and replace water coolers containing lead. It will also authorize a Federal program to help schools across the country evaluate the lead contamination levels of their tap water, and to assist schools in taking actions to lower lead levels.

We cannot continue to expose our children to unacceptably high levels of lead. There is no doubt in the medical

community that lead, even at relatively low doses, causes impaired intellectual development. I am hopeful that our colleagues in both Houses of Congress will act swiftly to enact this legislation designed to protect our young from the insidious effects of lead poisoning.●

By Mr. TRIBLE (for himself, Mr. WARNER, Mr. BUMPERS, Mr. BURDICK, Mr. BYRD, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SHELBY, Mr. SIMON, STAFFORD, Mr. STENNIS, Mr. THURMOND, and Mr. WILSON):

S.J. Res. 345. Joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled"; referred to the Committee on the Judiciary.

NATIONAL DAY OF OUTREACH TO THE RURAL DISABLED

Mr. TRIBLE. Mr. President, today I am introducing a joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled."

One out of four Americans with a work disability lives in rural America. Yet, rehabilitation services and employment opportunities for the disabled have remained a predominantly urban phenomenon.

Too often rural Americans face disabling conditions alone—removed from adequate health and rehabilitation services, isolated from special education programs, limited in transportation, and often deprived of innovative technological devices to aid work. Perhaps worst of all, in a rural culture where physical prowess and productivity are sometimes vital to survival, a disability can lead to low self-esteem and discouragement.

Since 1945, Federal law has designated October as the time to enlist public support and interest in the employment of people with disabilities. Designating October 8, 1988, as the National Day of Outreach to the Rural Disabled will help focus attention on the unmet needs of rural disabled people and highlight their talents and potential contributions to America.

Some innovative approaches toward meeting the needs of rural disabled people are underway. The Future Farmers of America has established an educational scholarship and awards program known as BRIDGE, Building Rural Initiative for the Disabled through Group Effort. As my colleagues know, virtually every rural community in America has an FFA chapter. Through the BRIDGE Program FFA is helping to mobilize the interest and effort of America's farm youth to assist rural disabled people.

Breaking New Ground is a nationwide program assisting physically disabled farmers who want to continue farming and ranching. The program is based at Purdue University's Department of Agricultural Engineering and provides information about modifying farm implements and equipment for farmers with disabilities.

Programs such as BRIDGE and Breaking New Ground are showing us how to reach out toward disabled rural Americans. Designating a National Day of Outreach toward the rural disabled will encourage all Americans to focus on the unique problems faced by rural disabled people. They have a lot to offer if America will tap their potential.

Mr. President, I urge my colleagues to support this measure. I ask that the text of the joint resolution be printed in the CONGRESSIONAL RECORD.

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

S.J. RES. 345

Whereas approximately 3,400,000 rural Americans of working age are disabled;

Whereas work disabilities are proportionally more prevalent in rural areas than urban areas and the rural disabled are more disadvantaged than their urban counterparts;

Whereas insufficient attention has been given to the unique problems faced by the rural disabled in the United States; and

Whereas there is a need to focus more attention on the unmet needs of the rural disabled, to underscore their potential, and to encourage outreach programs by rural communities to their disabled members: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 8, 1988, is hereby designated "National Day of Outreach to the Rural Disabled", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S.J. Res. 346. Joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

GREEK INDEPENDENCE DAY

● Mr. LAUTENBERG. Mr. President, I rise to introduce a joint resolution designating March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy". The resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

March 25, 1989, marks the 168th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is appropriate that we celebrate this day together with Greece in order to reaffirm the common democratic heritage between Americans and Greeks.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the people. As Aristotle said.

If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost.

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. America's Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our Government. For that contribution alone, we owe a heavy debt to the Greeks.

The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek Americans in New Jersey and across the country to our American culture.

I urge my colleagues to support this resolution as a tribute to these contributions, past and present, which have greatly enriched American life.

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. 346

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1989, marks the one hundred and sixty-eighth anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1989, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that

the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.●

Mr. SPECTER. Mr. President, today I join my colleague Senator LAUTENBERG in introducing a joint resolution to designate March 25, 1989, as "Greek Independence Day: a Celebration of Greek and American Democracy."

March 25, 1989, marks the 168th anniversary of when the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. How fitting, then, that we should recognize the anniversary of the beginning of their effort to return to that democratic tradition.

This democratic form of government is one of the most obvious of the many benefits we gained from the Greek people. The ancient Greeks contributed a great deal to the modern world and particularly to the United States of America, including art and philosophy, science, and law. Today, Greek Americans continue to enrich our culture and to make valuable contributions to American society, business, and government.

It is my hope that the strong support for this joint resolution in Congress will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Accordingly, I urge my colleagues to join us in supporting this important resolution.

By Mr. KENNEDY (for himself, Mr. SIMPSON, and Mr. HATFIELD):

S.J. Res. 347. Joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge; to the Committee on Foreign Relations.

RESTORATION OF A FREE AND INDEPENDENT CAMBODIA

Mr. KENNEDY. Mr. President, I am pleased today to join with Senator SIMPSON and Senator HATFIELD in sponsoring a joint resolution which outlines the steps needed for a peaceful solution to the tragic conflict in Cambodia.

Recent developments in the field suggest that the ingredients for a Cambodian peace are now available, except one—the denial of any role for the murderous Khmer Rouge in Cambodia's future. It was the Khmer Rouge, under Pol Pot, which precipitated Cambodia's current crisis and it would be unconscionable for them to be permitted a role in Cambodia's future.

America cannot allow another holocaust to repeat itself in Cambodia.

Vietnam has finally indicated it will withdraw its troops after a prolonged occupation of Cambodia. I believe Vietnam is committed to this, and is being encouraged by its ally, the Soviet Union.

Cambodian Prince Sihanouk has courageously provided a framework for talks on the future of Cambodia. He is the one Cambodian leader with the credibility and neutrality sufficient to bridge the numerous factions currently dividing the Cambodian people.

The one missing element is the continued specter of Pol Pot and the Khmer Rouge having a role in Cambodia's future. Without their removal, Cambodia's people—including the 300,000 refugees along the Thai-Cambodian border—cannot return to their native lands or rebuild their lives. And Cambodia's neighbors cannot be assured of the future security of their borders and their citizens until the threat of Pol Pot and the Khmer Rouge is removed.

In 1978, I sent a delegation of distinguished Americans to Southeast Asia to examine the refugee situation. They brought back some of the first reports of Pol Pot's terror in Cambodia. The delegation met at that time with the early escapees from Pol Pot's bloodbath who, ironically, were being given refuge in Southern Vietnam under the auspices of the U.N. High Commissioner for Refugees. My delegation was shocked by the tales of brutality shared by these Cambodian refugees.

A few months later, the world learned that these refugees' experiences with the Khmer Rouge were but the tip of the iceberg. Mass executions, the separation of families in the dead of night, food deprivation, the forced abandonment of the cities, were all the order of the day for 4 years of Khmer Rouge tyranny under the Pol Pot.

Never again should Pol Pot and the Khmer Rouge leadership be allowed to set foot in Cambodia. I believe the resolution we are introducing today expresses these concerns and lays the groundwork for United States policy on the kind of future in Cambodia that will best promote the interests of the Cambodian people as well as peace and stability in the region.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 684

At the request of Mr. HEINZ. the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 909

At the request of Mr. REID, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 909, a bill to require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1774

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1787

At the request of Mr. DASCHLE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1851

At the request of Mr. METZENBAUM, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1851, a bill to implement the International Convention of

the Prevention and Punishment of Genocide.

At the request of Mr. BENTSEN, his name was added as a cosponsor of S. 1851, supra.

S. 2068

At the request of Mr. MITCHELL, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2068, a bill to amend the Marine Protection, Research and Sancturaries Act to protect marine and near-shore coastal waters through establishment of regional marine research centers.

S. 2111

At the request of Mr. HATFIELD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2111, a bill to amend the patent law, title 35, United States Code, to prohibit the patenting of genetically altered or modified animals.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2231

At the request of Mr. KARNES, his name was added as a cosponsor of S. 2231, a bill to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such act, and for other purposes.

S. 2330

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2395

At the request of Mr. WIRTH, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2411

At the request of Mr. MITCHELL, the names of the Senator from Nevada [Mr. HECHT], the Senator from Michigan [Mr. LEVIN], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2449

At the request of Mr. PRYOR, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2449, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 2450

At the request of Mr. CHILES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2466

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2466, a bill to amend the Public Health Service Act to establish a program of grants to the States for the purpose of providing to the public information on Lyme disease.

S. 2488

At the request of Mr. DODD, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 2495

At the request of Mr. BOND, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2495, a bill to amend the Agricultural Act of 1949 to permit producers to plant supplemental and alternative income-producing crops on acreage considered to be planted to a program crop.

S. 2502

At the request of Mr. KARNES, his name was added as a cosponsor of S. 2502, a bill to establish a task force to conduct a study relating to the reduction in use of chlorofluorocarbons and halons.

S. 2533

At the request of Mr. SANFORD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2533, a bill to erect a marker in Potomac Park in Washington, DC, in honor of Matt W. Ransom.

S. 2539

At the request of Mr. BURDICK, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2539, a bill to amend the Agricultural Act of 1969 to provide drought relief to producers of 1988 crops of wheat, feed grains, upland cotton, and for other purposes.

S. 2550

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2550, a bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States and for other purposes.

SENATE JOINT RESOLUTION 1

At the request of Mrs. KASSEBAUM, her name was added as a cosponsor of Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE JOINT RESOLUTION 270

At the request of Mr. RIEGLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 270, a joint resolution designating June 26, through July 2, 1988, as "National Safety Belt Use Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 306

At the request of Mr. CHAFEE, the names of the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mr. GRAHAM], the Senator from Virginia [Mr. TRIBLE], the Senator from Illinois [Mr. DIXON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 306, a joint resolution designating the day of August 7, 1988, as "National Lighthouse Day."

SENATE JOINT RESOLUTION 316

At the request of Mr. SASSER, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 316, a joint resolution designating October 1, 1988, as "National Quality First Day."

SENATE JOINT RESOLUTION 319

At the request of Mr. LEAHY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 319, a joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

SENATE JOINT RESOLUTION 326

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Maine [Mr. MITCHELL], the Senator from Texas [Mr. BENTSEN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mr. ADAMS], the Senator from Kentucky [Mr. FORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Mexico [Mr. DOMENICI], the Senator

from Missouri [Mr. DANFORTH], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. EVANS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. MCCAIN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Colorado [Mr. WIRTH], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Idaho [Mr. SYMMS], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 326, a joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 342

At the request of Mr. MOYNIHAN, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Kentucky [Mr. FORD], the Senator from North Carolina [Mr. HELMS], the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mr. ADAMS], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. SASSER], the Senator from Arizona [Mr. MCCAIN], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 342, a joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE RESOLUTION 432

At the request of Mr. MOYNIHAN, the names of the Senator from Delaware [Mr. ROTH], the Senator from Missouri [Mr. DANFORTH], the Senator from Nevada [Mr. HECHT], the Senator from South Carolina [Mr. THURMOND], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Resolution 432, a resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the hundredth anniversary year of his birth.

SENATE CONCURRENT RESOLUTION 129—EXPRESSING THE SUPPORT FOR DALAI LAMA

Mr. PELL (for himself, Mr. HELMS, Mr. CRANSTON, and Mr. MURKOWSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 129

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Congress has previously expressed its concern regarding the policies of the People's Republic of China in Tibet, including the violation of Tibetan human rights, and has called on the Chinese Government to ameliorate the situation.

(2) The Dalai Lama presented a Five Point Peace Plan for the restoration of peace and human rights in Tibet during his visit to the Congress in September 1987. This Peace Plan has received considerable international support.

(3) The Dalai Lama has now prepared a proposal for a democratic system of government for the people of Tibet founded on law, by agreement of the people of Tibet, for the common good and protection of themselves and their environment.

(4) The proposal of the Dalai Lama recognizes that the primary responsibility for the conduct of the foreign affairs, and the exclusive responsibility for the defense, of Tibet will remain with the Government of the People's Republic of China, in order to fulfill its defense responsibility, will be permitted to maintain a restricted number of military bases in Tibet, but these bases must be located away from population centers.

(5) The proposal of the Dalai Lama contains important measures to ensure and enhance the human rights of the Tibetan people to include the following:

(A) Specific steps will be taken to fulfill the goal of transforming the Tibetan plateau into a peace sanctuary. These steps include convening a regional security conference to determine ways to reduce regional tensions and eventually to demilitarize the Tibetan plateau and bordering regions.

(B) Tibet will be founded on a constitution, or basic law, which will provide for a democratic form of government, with an independent judiciary, and a popularly elected chief executive and legislative assembly. The basic law will contain a bill of rights which will guarantee individual human rights and democratic freedoms as expressed in the Universal Declaration of Human Rights.

(C) The basic law of Tibet will ensure the protection of the natural resources of the plateau by requiring the passage of strict laws to protect wildlife and plant life and by effectively converting almost the entire area of Tibet into national park lands or biospheres.

(D) During an interim period, following the signing of an agreement based on the proposal, Tibet will be governed according to a transitional agreement providing for a gradual reorganization of the administration of Tibet, the restoration of human rights to Tibetans, and the return to the People's Republic of China of Chinese recently settled through inducement and involuntary placement by the People's Republic of China in Tibet.

(E) In order to create an atmosphere of trust conducive to fruitful discussions, the Government of the People's Republic of China should respect the human rights of the people of Tibet and not engaged in a policy of transferring Chinese persons to Tibet.

(F) Before ratification of any agreement, the proposal will be submitted to the Tibetan people in popular referendum.

(6) The Dalai Lama has asked the Government of the People's Republic of China and other concerned governments to study carefully, and respond constructively to, the substance of the proposal.

SEC. 2 EXPRESSION OF CONGRESSIONAL SUPPORT FOR THE DALAI LAMA AND HIS PROPOSAL FOR TIBETAN DEMOCRACY.

The Congress—

(1) commends the Dalai Lama for his past efforts to resolve the problems of Tibet through negotiation with the People's Republic of China, and for dissuading the Tibetan people from using violence to regain their freedom;

(2) commends the Dalai Lama for his new proposal in his continued quest for peace, and expresses its support for the thrust of his proposal;

(3) calls on the leaders and the Government of the People's Republic of China to respond positively to the proposal of the Dalai Lama, and to enter into earnest discussions with the Dalai Lama, or his representatives, to resolve the question of Tibet along the lines proposed by the Dalai Lama.

(4) calls on the President and the Secretary of State to express the support of the United States Government for the thrust of the proposal of the Dalai Lama, and to use their best efforts to persuade the leaders and the Government of the People's Republic of China to enter into discussions with the Dalai Lama, or his representatives, regarding the proposal of the Dalai Lama and the question of Tibet.

Mr. PELL. Mr. President, The Dalai Lama has recently proposed a major new intitiative to achieve a just settlement of the problems in Tibet. The popular demonstrations and arrests of the past year are but a symptom of underlying feelings of Tibetans that their culture has been suppressed. Monasteries have been closed, people have been arrested, and freedom of speech and assembly has been stifled. Although the Chinese Government has taken several steps to improve the stiuation, the fundamental cause of the unrest, the Tibetan desire to preserve their way of life, remains as strong as ever.

Today I join with Senators CRANSTON, HELMS, and MURKOWSKI in introducing a resolution expressing the support of Congress for the Dali Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet.

The thrust of the Dalai Lama's proposal is for democratic rule and the preservation of Tibetan culture. His Holiness the Dalai Lama presented it to the European parliament on June 15 as a means to encourage international support for a constructive dialog between Tibetan leaders and the Government of the People's Republic of China.

His proposal recognizes that China will retain exclusive responsibility for defense and foreign affairs, and calls upon Beijing to enter into negotiations to promote self-government, reduce re-

gional tensions, establish an independent juridicary, and protect the environment of the people of Tibet.

I wholeheartedly support this balanced and constructive initiative of the Dalai Lama, and urge my colleagues to join in a resolution of support for his proposals.

SENATE CONCURRENT RESOLUTION 130—PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE CONGRESS

Mr. BYRD (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 130

Resolved by the Senate (the House of Representatives concurring), That when the House adjourns at the close of business on Thursday, June 30, 1988, pursuant to a motion made by the Majority Leader of the House, or his designee, in accordance with this resolution, it stand adjourned until 12:00 o'clock meridian on Wednesday, July 6, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first, and when the Senate recesses or adjourns at the close of business on Wednesday, June 29, 1988, pursuant to a motion made by the Majority Leader of the Senate, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 o'clock meridian on Wednesday, July 6, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Speaker of the House, after consultation with the Minority Leader of the House, and the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 447—COMMENDING J. LEWEY CARAWAY ON THE OCCASION OF HIS RETIREMENT

Mr. BYRD (for Mr. BUMPERS) (for himself, Mr. PRYOR, Mr. FORD, Mr. STEVENS, Mr. ADAMS, Mr. BOND, Mr. BAUCUS, Mr. WEICKER, Mr. NUNN, Mr. SIMON, Mr. CHILES, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. DOLE, Mr. GORE, Mr. DOMENICI, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. EVANS, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. WIRTH, Mr. HEFLIN, Mr. THURMOND, Mr. DECONCINI, Mr. BINGAMAN, Mr. GARN, and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

Whereas, on June 15, 1988, J. Lewey Caraway retired from service as the Superintendent, Senate Office Buildings after almost fifty-eight years of service to the United States Senate.

Whereas, "Lewey" has served the United States Senate with honor and distinction since joining the staff of the Architect of the Capitol and assigned to the Office of the Superintendent, Senate Office Buildings in 1931;

Whereas, his hard work and outstanding abilities resulted in his appointment to the position of Superintendent, Senate Office Buildings on October 1, 1949;

Whereas, "Lewey" has at all times executed the important duties and responsibilities of his office with great efficiency and diligence; and

Whereas, J. Lewey Caraway has demonstrated dedication and loyalty to the United States Senate as an institution and leaves a legacy of superior and professional service: Now, therefore be it

Resolved, That the United States Senate expresses its deep appreciation and gratitude to J. Lewey Caraway for his years of faithful and exemplary service to his country and to the United States Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to J. Lewey Caraway.

SENATE RESOLUTION 448—RECOGNIZING THE CONTRIBUTIONS OF THE MOST REVEREND FRANCIS T. HURLEY, ARCHBISHOP OF ANCHORAGE

Mr. COHEN (for Mr. STEVENS, for himself and Mr. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 448

Whereas, The Most Reverend Francis T. Hurley has served Alaska since 1970 when Pope Paul VI named him Bishop of the Diocese of Juneau where he worked to improve the community until 1976 when he was appointed as the Second Archbishop of the Archdiocese of Anchorage;

Whereas, Archbishop Hurley has been deeply involved in improving the life of the common man and has developed programs for the elderly, the sick, the hungry and the homeless, and those in despair;

Whereas, Archbishop Hurley has been an outspoken advocate of family unity and has been instrumental in providing services for children, working families, unwed mothers, and battered women;

Whereas, Archbishop Hurley has played a leading role in developing educational programs for young Alaskans and has worked tirelessly to promote development of Alaska's resources through his participation in the Resource Development Council;

Whereas, Archbishop Hurley has been the driving force behind the Brother Francis Shelter which has provided an opportunity for all Alaskans to get involved in their community;

Whereas, Archbishop Hurley's achievements have been recognized by the Anti-Defamation League which has named him as the first Alaska recipient of the Torch of Liberty Award;

Whereas, Archbishop Hurley has lived the greatest commandment, "Do unto others as you would have others do unto you";

Therefore, be it resolved, That the United States Senate honors and recognizes The Most Reverend Francis T. Hurley, Archbishop of Anchorage, for his achievements and his dedication and commitment to the people of Alaska and indeed the world.

SENATE RESOLUTION 449—AUTHORIZING TESTIMONY BY A SENATE EMPOYEE AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 449

Whereas, in the case of United States versus Burnley, et al., Case No. 88-0179, pending in the United States District Court for the Southern District of California, counsel for the defendant has served a subpoena for the testimony of Robert Hudson, a former employee of the Senate on the staff of Senator Pete Wilson;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved,* That Robert Hudson is authorized to testify in the case of United States versus Burnley, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Robert Hudson in the case of United States versus Burnley, et al.

AMENDMENTS SUBMITTED

PLANT CLOSING LEGISLATION

QUAYLE AMENDMENTS NOS. 2490 THROUGH 2492

(Ordered to lie on the table.)

Mr. QUAYLE submitted three amendments intended to be proposed by him to the bill (S. 2527) to require advance notification of plant closings and mass layoffs, and for other purposes; as follows:

AMENDMENT NO. 2490

On page 5, strike lines 18 and 19 and insert:

"er shall not order a plant closing until the end of a 60-day period or a mass layoff until the end of a 30-day period after the employer serves written notice of."

AMENDMENT NO. 2491

Page 2—strike line 18 through line 7 of page 3 and insert in lieu thereof:

during any 30-day period for 100 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 60 percent of the employ-

AMENDMENT No. 2492

Page 2—strike line 18 through line 7 of page 3 and insert in lieu thereof:

during any 30-day period for 75 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 50 percent of the employ-

DOLE AMENDMENT NO. 2493

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 2527, supra; as follows:

At the end of the bill insert the following: Those provisions of the General Laws of Massachusetts, Chapter 208, signed by Governor Michael Dukakis on July 12, 1984, as the program to alleviate the impact of major dislocations of employment and to assist in the reemployment of dislocated workers must be enacted into Federal law before this bill becomes effective and upon such adoption the provisions of this bill are superseded thereby.

QUAYLE AMENDMENTS NOS. 2494 AND 2495

(Ordered to lie on the table.)

Mr. QUAYLE submitted two amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 2494

On page 3, line 25, delete "6" and insert "12".

AMENDMENT No. 2495

On page 3, line 25, delete "6" and insert "9".

DOLE AMENDMENT NO. 2496

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 2527, supra; as follows:

At the end of the bill insert the following: Those provisions of the General Laws of Massachusetts, Chapter 208, signed by Governor Michael Dukakis on July 12, 1984, as the program to alleviate the impact of major dislocations of employment and to assist in the reemployment of dislocated workers must be enacted into Federal law before this bill becomes effective which effective date shall be 10 years from July 31, 1988.

DOMENICI AMENDMENT NO. 2497

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2527, supra; as follows:

At the appropriate place in the bill, insert the following:

( ) SPECIAL PROCEDURES IN THE EVENT OF A RECESSION.—

( ) IN GENERAL.—The Director of the Congressional Budget Office shall notify the Congress and the President at any time if—

( ) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the four quarters following such notification, such Office or the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any two consecutive quarters within such period, or

( ) the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recent reported quarter and the immediately preceding quarter is less than one percent.

Upon such notification the President shall suspend any regulations issued under this Act requiring the implementation of this Act.

HATCH AMENDMENTS NOS. 2498-2507

(Ordered to lie on the table.)

Mr. HATCH submitted 10 amendments intended to be proposed by him to the bill, S. 2427, supra; as follows:

AMENDMENT No. 2498

On page 6, line 22, strike "as of the time that notice would have been required."

AMENDMENT No. 2499

On page 2, line 18, strike "30-day period for 50" and insert the following; "6-month period for 90 percent".

AMENDMENT No. 2500

On page 2, line 18, strike "50" and insert in lieu thereof "90 percent"

AMENDMENT No. 2501

On page 7, line 2, add the following: "Such statement will not be required if the employer reasonably and in good faith believed such statement would preclude the employer from obtaining the needed capital or business."

AMENDMENT No. 2502

On page 6, line 17, strike "precluded" and replace with "significantly reduced the likelihood".

AMENDMENT No. 2503

On page 9, line 23, strike the period and add the following "; and

"(D) any other payments to the employee which are the result of the employment termination, including other employment or unemployment compensation."

AMENDMENT No. 2504

On page 7, lines 22 through 23, strike "employer demonstrates that the".

AMENDMENT No. 2505

On page 11, line 2, insert after the period "For the purposes of this section reasonable attorneys' fees shall be determined by the court but shall not exceed $75 per hour."

AMENDMENT No. 2506

On page 12, following line 18, insert the following new section:

"Sec. 11. (a) No contract let by any agency or Department of the Federal government shall be terminated in full or in part for the convenience of the government or for any other reason unless the government has first given the contractor sixty (60) days notice in writing of such termination.

(6) In the event that the full or partial termination of any such contract without 60 day notice and results in an employment loss for any of the contractor's employees, any penalties incurred by the contractor for failure to give 60 days notice shall be considered allowable costs allocable to the contract."

AMENDMENT No. 2507

On page 12, strike lines 14-18 and insert in lieu thereof the following: "This Act shall take effect on the date of enactment except that no enforcement of such Act can commence until 6 months following the regulations becoming final."

DOLE AMENDMENT NO. 2508

(Ordered to lie on the table.)

Mr. DOLE submitted the following amendment intended to proposed by him to the bill (S. 2527) supra; as follows:

Insert at the appropriate place:

"It is the sense of the Senate that any bill relating to advance notice of plant closing should be based on the principles underlying the Dukakis Massachusetts plan. Those principles are that advance notice should be voluntary; that there should be incentives for giving of advanced notice; that employers who do not give notice should be ineligible for special governmental assistance and that employees who do not get notice should get additional unemployment assistance."

RETAIL COMPETITION

INOUYE (AND OTHERS) AMENDMENT NO. 2509

Mr. METZENBAUM (for Mr. INOUYE, for himself, Mr. METZENBAUM, and Mr. BYRD) proposed an amendment to the bill (S. 430) to amend the Sherman Act regarding retail competition; as follows:

At the end of the pending matter add the following;

(a) Section 3(2) of the Newspaper Preservation Act (Public Law 91-353; 15 U.S.C. 1803(6)) is amended by inserting after "distribution" the first time it appears the following: "of all or part of such newspaper publication".

(b) Section 3(4) of such Act (15 U.S.C. 1802(4)) is amended by inserting after "produced" the following: "in whole or in part"

(c) Section 4(c) of such Act (15 U.S.C. 1803(6)) is amended by striking out the first sentence and inserting in lieu thereof the following; "It shall not be unlawful for any person to enter into, perform, or enforce a joint operating arrangement not already in effect, if the prior written consent of the Attorney General has been obtained.".

(d) Section 4 of such Act (15 U.S.C. 1803(6)) is amended by adding at the end thereof the following new subsection:

"(d) In any action under any antitrust law challenging joint conduct between the parties to a joint newspaper operating arrangement that has received the limited antitrust exemption provided by subsection (a) or (b) of this section, joint conduct between the parties that is not exempt as part of such arrangement but that is reasonably ancillary to the business of publishing the newspaper publications involved in the arrangement shall not be deemed illegal per se. Such joint conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition in properly defined relevant markets.".

METZENBAUM AMENDMENT NO. 2510

Mr. METZENBAUM proposed an amendment to the bill S. 430, supra; as follows:

On page 4, amend section 2 of the pending matter by adding before the period at the end thereof the following: ", except that this section shall not apply when the agreement to set, change, or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service."

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the public that the hearing previously scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources has been rescheduled to begin at 1 p.m. instead of 10 a.m., on Friday, July 1, 1988, at the Technology Center of LTV Steel Corp., 6801 Brecksville Road, Independence, OH.

For further information, please contact Mr. Bernstein at (202) 224-2315.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the following hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will be held on July 26, 1988, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2148, the Omnibus Oregon Wild and Scenic Rivers Act of 1988.

Since the subcommittee has heard testimony from a large number of witnesses during three field hearings held earlier on this measure, the number of witnesses for the July 26 hearing will be limited.

If you have any questions regarding the hearing, please contact Tom Williams, of the subcommittee staff, at X47145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, June 29, to conduct a hearing on drunk-driving legislation (S. 2367 and S. 2523) and related issues.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on June 29, 1988, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. The Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on S. 2011, to include compensation, health, Board of Veterans' Appeals, education, vocational rehabilitation, and other benefits legislation, and S. 11, judicial review and BVA legislation on Wednesday, June 29, 1988, in SR-418.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON RURAL ECONOMY AND FAMILY FARMING

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Subcommittee on Rural Economy and Family Farming be authorized to meet during the session of the Senate on Wednesday, June 29, 1988. The purpose of the subcommittee hearing is to help identify prospects for economic development in rural America.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate on Wednesday, June 29, 1988, to conduct hearings on S. 2544, the International Securities Enforcement Cooperation Act of 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 29, to hold a hearing on pending ambassadorial nominees.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 29, to receive a briefing on the situation in Haiti.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

ALCOHOL WARNING LABELS

● Mr. HARKIN. Mr. President, I rise today to focus attention on a problem that continues to plague America, the problem of alcohol abuse. Alcohol is the deadliest and most widely used drug we know today.

Several weeks ago, when it was determined that Accutane, the popular antiacne drug, caused severe birth defects, Federal officials took steps to prevent pregnant women from using it anymore. I applaud that decision. Yet we have failed to adequately address a far more widespead threat to fetal health, identified over 15 years ago—that of fetal alcohol syndrome. Currently, fetal alcohol syndrome is among the three leading causes of birth defects. Overall, statistics show that, 7 years after the Surgeon General recommended pregnant women abstain from using alcohol, alcohol contributes to at least 5,000 birth defects annually.

Despite overwhelming evidence that using alcohol during pregnancy is dangerous, most people underestimate the health threats. A recently conducted public opinion poll found that one-third of the women interviewed believed that an average daily consumption of more than three drinks was safe during pregnancy. Apparently they weren't aware of the abundance of scientific evidence that the use of alcohol can lead to decreased birthweight, behavorial problems and growth abnormalities.

Congress now has the opportunity to pass S. 2047, introduced by my colleague Senator THURMOND. I am a cosponsor of this legislation, which will require a health warning on the labels of all alcoholic beverage containers. It's sad enough that 5,000 babies were born last year with malformed bodies and faces, but it is even sadder that these abnormalities could have been prevented if mothers had been aware of the dangers of alcohol.

Mr. President, at this time, I ask that an article by Dirk Olin of the New Republic, outlining several of the political obstacles to the enactment of S. 2047, be inserted in the CONGRESSIONAL RECORD. I hope my colleagues will not let these obstacles prevent us

from enacting this important health protection measure.

The article follows:

THIS DUD'S FOR YOU

(By Dick Olin)

Alexander Pope advised his readers to "drink deep" from the spring of knowledge. America's liquor manufacturers, battling a current legislative proposal to label alcoholic drinks with health warnings, prefer their customers simply to drink deep. The $70 billion-a-year industry is counting on an indifferent White House and some powerful friends in Congress to beat back an influential label lobby.

An unlikely pair leads the proponents of booze warnings on Capitol Hill: Senator Strom Thurmond, the Republican from South Carolina who once so opposed a civil rights bill that he wrestled a colleague to the floor; and Michigan Democratic Representative John Conyers, a founding member of the Congressional Black Caucus. To be sure, the sponsors are pursuing different agendas. Thurmond is a teetotaling fitness fanatic who's been pushing this bill since 1969 (he even discourages tippling by his staff). Conyers deplores the disproportionate share of liquor ads targeted at blacks, who suffer high rates of such alcohol-related problems as high blood pressure and cirrhosis of the liver.

In a regulatory world that hangs hazard tags on everything from aspirin to bubble bath, it's difficult to understand the ruckus over the bill. Thurmond and Conyers simply want alcohol producers to place a series of labels on bottles. One cautions that alcohol is a drug that "may" be addictive; another notes the booze-related risks of hypertension, liver disease, and cancer; the others warn against drinking while pregnant, before driving, or when taking certain drugs. "Certainly we can do no harm in educating and informing," says Thurmond. "Especially with pregnant women."

Opponents argue that labels would have no effect and would cost jobs. Obviously both can't be true. So they also complain that the industry is overtaxed, and argue that labels might prove counterproductive: Liquor would become more attractive to teenagers by being labeled a forbidden fruit. The Beer Institute's James Sanders insists that "labels are a false solution to a complex problem. We're in an election year, and alcohol is being wrongly lumped with drugs in an atmosphere of emotional hysteria. Our only real progress against alcohol abuse can come through the slow process of education." As Conyers points out, however, education is precisely the purpose of labels.

You don't have to be a neo-prohibitionist to recognize that alcohol is a sometimes dangerous and socially damaging drug. A 1983 study by the National Institute on Alcohol Abuse and Alcoholism estimated that overimbibing costs the country $117 billion a year in health care and lost productivity. In 1986 more than one-half of the nation's 46,056 traffic deaths were liquor-related. And, according to the Center for Science in the Public Interest (CSPI), alcohol abuse during pregnancy results in at least 5,000 cases of infant deformity and mental retardation every year. So-called Fetal Alcohol Syndrome is the third-leading cause of birth defects, the only preventable one among the top three.

A recent Gallup Poll found almost 80 percent of the American public in favor of warning labels on alcoholic beverages. Even the Wine Spectator, a pro-industry publication, recently backed labels. "Winemakers can pull the train of health consciousness," wrote managing editor Jim Gordon, "or they can be dragged along behind it as the cigarette makers were."

But whatever the merits of the labeling bill, its prospects don't look bright. It's currently in the Senate Commerce Committee, which isn't known to be overly concerned about health issues. "That committee is interested in promoting American business," notes one congressional aide. "It's always been a burial ground for health bills." What's more, the committee includes some of the members most beholden to the alcohol industry. According to Common Cause, 20 liquor-related PACS spent $1.2 million on campaigns for the House and Senate in 1985–86. On the Commerce Committee, in 1987 Texas Democrat Lloyd Bentsen received more than $50,000 from individuals associated with the alcohol industry, and ranking Republican John Danforth of Missouri received upward of $40,000 from folks connected to his state's gigantic brewer, Anheuser-Busch.

Other committee members who are considered unsympathetic to labeling include Democrat Wendell Ford—whose home state of Kentucky produces more distilled spirits than any other—and Wisconsin Republican Bob Kasten, who watches out for the brewing industries of Milwaukee. Kasten's office claims he has an open mind on the subject, but one aide revealed that the senator is inclined against labels. Alcohol problems derive from abuse, he said, not simply from use, as with cigarettes. "And even so," he added, "the health problems from one night of alcohol abuse generally are just a hangover and empty calories." Three years ago Kasten was arrested in Washington, D.C., for drunk driving. He avoided a criminal record by taking a course on alcohol abuse.

Advocates are not so sure what to make of Tennessee Democrat Albert Gore. He once shrugged off home-state tobacco interests and supported cigarette labels. The liquor label bill, though, has been languishing in the subcommittee he chairs, suggesting that Gore has one eye on Tennessee's huge Jack Daniels distillery. Danforth, meanwhile, is usually identified as the labeling bill's most vocal opponent, a curious stance for the man whose support of reregulated transportation and higher drinking age once earned him the title "Mr. Safety" from Congressional Quarterly.

The other obstacle to a simple labeling initiative is a bureaucratic accident. Ever since repeal of prohibition, the Bureau of Alcohol, Tobacco and Firearms has been an arm of the Treasury Department, not a health agency. As a result, says CSPI's Bruce Silverglade, the bureau is ill-suited to lobby for health regulations. "The bureau is really there to collect taxes," he says. A Treasury spokesman defended the bureau, arguing that it is a "sophisticated agency" responsible for such health information as sulphite labels on wine. He also noted that BATF is studying the label proposal, with findings due out in November.

Proponents worry that such efforts have died on the vine in the past. During the late 1970s President Carter's bureau was preparing to require warnings about liquor-based birth defects. That ended with the Reagan administration. The White House has been silent on the labeling question ever since. Its "Just Say No" campaign against drug abuse originally ignored alcohol altogether.

The irony is that the alcohol industry may actually stand to gain from labels. The cigarette manufacturers, who fought a similar battle against labels 22 years ago, are now receiving some protection from the very provision they once opposed. In a liability suit recently decided by a jury in Newark, New Jersey, Rose Cipollone's husband sought damages against three tobacco companies for her 1984 death by cancer. The only defendant found liable was the maker of cigarettes that she had smoked before the imposition of federal warnings.

Seven alcohol manufacturers currently face similar accusations. The parents of some disabled children in Washington state are suing the companies, claiming that the liquor makers should have warned them about Fetal Alcohol Syndrome. "If it can be proven that the manufacturer knew or should have known about the risk, and there's a failure to warn, then there's a potential claim there," says liability lawyer Victor Schwartz. On the other hand, he points out, plaintiffs would have to prove that a warning actually would have changed the victim's behavior.

What can a label really accomplish? The United States has gotten so tort-happy that my neighborhood hardware stores sells a stepladder tagged with 36 warnings. But however inured we've become the exhortations of consumer watchdogs, the fact remains that stupid drinking hurts a lot of people. And not everyone "already knows" the dangers, as the liquor lobby glibly claims. A recent survey by the National Center for Health Statistics revealed that 43 percent of respondents under age 45 had never even heard of Fetal Alcohol Syndrome. If liability suits continue their present trend, perhaps the liquor industry finally will support labels out of "enlightened" self-interest. It's the consumers' interest, however, that Congress and the White House should be pursuing.●

DEVELOPMENTS IN TAIWAN

● Mr. SIMON. Mr. President, I wish to call the attention of my colleagues in the Senate to positive and important developments in Taiwan which are creating a freer and more democratic political life for the people of Taiwan. On the eve of the 13th Congress of the Kuomintang Party, I want to commend President Lee Teng-hui and the people of Taiwan on the steps they have taken to promote democracy. I hope that Taiwan's new political agenda is endorsed and given impetus by Congress.

A noteworthy development of the past year was the constitutional transfer of power from the late President Chiang Ching-kuo to President Lee, who, it should be noted, is a native son of Taiwan. President Lee is an accomplished public servant. He is a former mayor of Taipei, governor of Taiwan, and former Vice President. He entered government service after a successful career as an agricultural economist. Incidentally, he was educated at Iowa State and Cornell University and his doctoral thesis was published by the Cornell University Press.

During his short tenure in office, President Lee has worked to build upon the policies of his predecessor in

opening up Taiwan's political life and increasing contacts between Taiwan and the People's Republic of China. The development of a consensus for democracy and for a positive foreign policy will, I hope, be strengthened during the forthcoming 13th Congress.

Certainly these policies of change will not be easy and will be unsettling to many people in Taiwan. In considering the difficult days ahead, the leaders of the Republic of China should recall Churchill's view of democratic government:

> No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time.

I commend these words not just to the Government of Taiwan, but to all governments everywhere.●

WE MUST NOT RAID THE SOCIAL SECURITY SURPLUS

● Mr. SYMMS. Mr. President, the commentators on our economic policy and the economic conditions of the U.S. Government have finally noticed the Social Security surplus. Senators will recall the great debate we conducted last April 12-13 about it.

I participated in that debate, as a cosponsor of S. 2211, a bill I joined Senators SANFORD and CONRAD in introducing, to take the Social Security trust funds out of the Gramm-Rudman process by 1990.

My opinion then and my opinion today is that we must place the Social Security system so far outside the political grasp of the Congress or the political appointees of the administration that no possible effort to dip into it for any purpose except the retirement security of our senior population can even be conceived of.

I rise today, however, Mr. President, to warn my colleagues that this emerging Social Security surplus is about to become a political football—and we must not allow this to happen.

I have noticed in the press an increasing chorus of commentators who make the suggestion this large accumulation of wealth in the Social Security trust funds might be invested to do lots of useful things—rebuild our decaying cities, stimulate economic growth in rural or depressed areas, subsidize the education of our children, or modernize our industrial base.

Indeed, I read in the column by Hobart Rowen of the Washington Post, June 16, that Presidential candidate Michael Dukakis is thinking about doing exactly what I say is the wrong thing.

Mr. Rowen quotes him as saying, "There could be a fourth option. Why not explore with Congress the possibility of investing some of the trust fund surplus in the private sector, rather than putting it all in Treasury securities? That would give a lift to national savings and productivity."

Mr. President, it is well known in this city that the columns by Mr. Rowen are very significant inasmuch as he often voices "trial balloon" proposals for important public figures. Indeed, can it be a coincidence that on that very day of June 16, the distinguished Senator from North Carolina [Mr. SANFORD] introduced S. 2520, the Investment in Tomorrow Act of 1988.

Let me quote from this proposal—

> Such investments shall be made, as provided by appropriation Acts, in United States interest-bearing loan government programs for education, economic development of poverty stricken areas, and such public works as highway and bridge construction.

There it is, Mr. President, the full blown proposal to capture the Social Security surplus and use it for politically directed purposes.

You will notice that the language in S. 2520 calls for "appropriation acts" to govern the application of the funds. I certainly agree with the distinguished Senator from North Carolina that we must never permit the administration, or the social Security trustees, to invest the funds at their own discretion—that would be no different from the Soviet system of allocating investments.

But we cannot permit the uses of the Social Security surplus to be determined by appropriations. It does not take a Senator very long to gain an understanding of the nature of the appropriations process—and I am sure America's senior citizens will have the same strong feelings of opposition to the proposal as this Senator.

Mr. President, I ask unanimous consent that the entire article by Hobart Rowen from the Washington Post of June 16 be printed in the RECORD at this point. Also, an article that appeared in that newspaper today by Prof. Alan S. Blinder of Princeton University, and an article from the Wall Street Journal by Irving Kristol on June 17.

Finally, Mr. President, I think it is worth while to include in the RECORD an article from the June 1988 issue of Saving Social Security, the newspaper of the National Committee to Preserve Social Security and Medicare, which expresses the strong concern of senior citizens about the potential for embezzling the Social Security system.

The material follows:

[From the Washington Post, June 16, 1988]

SOCIAL SECURITY SURPLUS: INVEST IT?

(By Hobart Rowen)

Invest a portion of the Social Security trust fund surplus in private corporate stocks and bonds? It's an idea that—at first blush—may horrify some people but may in time be a serious alternative in a perplexing situation.

Belatedly, politicians have caught up with the fact that the Social Security system is generating huge surpluses. With the higher tax rates established by the reforms initiated three years ago, the system is accumulating vast amounts of money that it is not paying out—yet.

For the moment, these surpluses disguise the real budget deficit: if the Social Security surplus were not added in, this year's red-ink total would be almost $40 billion higher than the $150 billion it is said to be—or nearly $190 billion.

Given this stunning bit of arithmetic, as Jodie Allen recently pointed out in Outlook, the huge Social Security surplus looks to some like manna from heaven—a painless, tax-free solution to the budget-deficit problem.

The situation is more complicated: the "cover" that the Social Security surpluses provide for the deficit will grow steadily bigger, until some time around 2010 or 2020, when increased payouts will begin. At the peak, according to former Social Security commissioner Robert Ball, the total trust fund will amount to a mind-boggling $12 trillion, at least a couple of times larger than the entire projected national debt.

Put another way, the Social Security system could "own" the entire national debt—and still face the problem of finding an investment home for the rest of its money.

Allen spelled out the three options generally offered to deal with this puzzle. First, the payroll taxes that are generating surpluses could be cut, because their accumulation may act as a drag on the economy. Reducing taxes, which has great appeal to politicians, presumably would allow consumers to spend, as they see fit, some of the monies now going into the trust fund.

But that, as presidential candidate Michael Dukakis said in a separate interview with The Post, would not be "responsible," because it would drain away contributions set up by a careful, actuarial schedule. This schedule is designed to finance the pensions to be paid to the retiring "baby boom" generation in the next century. And it would be extremely chancy to assume that Congress would at any time willingly restore the Social Security taxes necessary to ensure the promised pensions.

Second, the surplus could be allowed to accumulate in the trust fund while the government continues to borrow from it to pay for current expenses. That, essentially, is what we are doing now. The problem with this option is that it is a copout: the existence of the surplus—which won't last forever—postpones the need to reduce spending and/or raise other taxes to cover the regular deficit.

Third, the trust fund surpluses can be allowed to build up as planned against the needs of the next century, while the next president and Congress make the hard tax and spending choices averted by the second option.

"There could be a fourth option," Dukakis told me recently while he was campaigning in New Jersey. Why not, he said, explore with Congress the possibility of investing some of the trust fund surplus in the private sector, rather than putting it all in Treasury securities? That would give a lift to national savings and productivity.

(Dukakis would not abandon the third option: he's committed to reducing the budget deficit over a four- or five-year span, by spending cuts and tax increases—if necessary—without reducing Social Security benefits.)

Dukakis knows the "fourth option" may cause alarm among those who believe that

investing Social Security funds in anything but the government's own securities would be too risky. Some may say it raises the specter of socialism.

But others, including Federal Reserve Board Chairman Alan Greenspan, think it's an idea worth exploring—very cautiously—making sure that only the most conservative private investments are considered.

Greenspan has said publicly that it is "important to recognize that unless we invest our Social Security accounts in private instruments, the surplus by itself doesn't contribute to net savings [in the economy]."

But Greenspan is known to feel that the idea is useful only if, at the same time, the regular budget deficit is reduced. Otherwise, the amount of money that had been borrowed by the Treasury from the trust fund would have to be borrowed directly from the public. In that case, the true government deficit—and the savings rate—would remain exactly the same. Pending further study, Greenspan said: "I don't know where I would come out on it."

Experts like Ball aren't sure, either. But they acknowledge, looking at that $12 trillion buildup, that down the road some way will have to be devised for investment of the extra Social Security funds in the private sector, or in some new form of public projects that generate true savings. This will be controversial as well as exceedingly complicated, but the year 2020 isn't all that far off.

[From Saving Social Security, June 1988]

TRUST FUNDS UPDATE—CONGRESS MOVES TO PROTECT

New legislation to finally and completely remove Social Security from the deficit-reduction process is underway in both the House and Senate. The bills would protect Social Security because Social Security Trust Funds surpluses could not be used to offset deficits in other government programs.

Removing the Social Security Trust Funds from the budget process is the highest priority of National Committee members, according to a recent survey.

Representatives Byron Dorgan, D-N.D., and Mary Rose Oakar, D-Ohio, introduced H.R. 4396, which would remove the Trust Funds from the budget process as of September 30, 1989, the beginning of federal government fiscal year 1990. Dorgan and Ms. Oakar are circulating a "Dear Colleague" letter to Members of Congress, inviting them to co-sponsor the bill. "We must break the habit of relying on Social Security surpluses to offset operating deficits and decide how to balance the budget honestly, before it is too late," the letter says.

Last year, House and Senate leaders considered elimination or reduction of the proposed Social Security Cost of Living Allowance (COLA) as part of an overall spending cut to help balance the budget. Only after the delivery of nearly eight million petition signatures from National Committee members was the proposal dropped. But the threat to future COLAs and other benefits is still there, unless the proposed legislation succeeds in changing the way the federal deficit is counted.

Currently, federal income is less than its obligations, so the budget is running a deficit. The Social Security Trust Funds are running a surplus. To calculate the federal budget, all government income and expenses except Social Security are added and subtracted to achieve a total. Then, the amount of Social Security receipts and expenses for the year are added to that total. Even though the Social Security surplus is earmarked for future retirees and cannot be spent for any other program, Congress allows the surplus to be calculated on paper against the federal deficit so that it appears lower than it actually is. This type of accounting practice has come under fire because it masks the true size of the deficit.

To compound the problem, the federal government currently borrows all the Social Security Trust Funds surpluses, leaving behind IOUs in the form of Treasury notes that will have to be paid when current taxpayers retire. Treasury note-secured Trust Funds are expected to top $1 trillion by 1990. "The federal government is not currently saving to meet these obligations," Dorgan and Ms. Oakar state in their letter.

The anticipated crisis could occur between 2010 and 2020, when baby boomers begin to retire. The government will be forced to repay those IOUs with cash by either borrowing the money or raising taxes—both economically and politically risky ventures. The other alternative is to cut benefits for those retiring at that time. Many in Congress say they feel that efforts should be made now to head off this possible crisis, and they say the best way is to either take Social Security Trust Funds out of the budget process or return the Social Security system to a pay-as-you-go system instead of building up funds to meet future needs.

Whether to allow Trust Funds surpluses to accumulate has been a controversial issue since Social Security was created in 1935. Surpluses accumulated as early as 1937, and were blamed for an economic recession that hit the nation that year. Several commissions were established over the next few decades to study how the Social Security Trust Funds impact the economy. The issue soon became whether Social Security Trust Funds should be counted as part of the federal budget. Finally, under President Lyndon Johnson, the combined, or "unified," budget became the standard practice. But many felt this was just an accounting trick to hide the real cost of the Vietnam War.

In 1983, the Commission on Social Security Reform, chaired by Alan Greenspan, now head of the Federal Reserve, was set up to study the future of the Social Security System and establish the system on firm financial ground. The Commission recommended that Social Security once again be taken out of the budget. Finally, the Gramm-Rudman-Hollings Act of 1985 dictated that the Social Security Trust Funds were not to be used in calculating the federal budget, but that Social Security revenues and expenditures were to be used in calculating the deficit.

After last year's highly controversial attempt to cut the Social Security COLA, a bipartisan National Economic Commission was created to recommend ways to balance the budget. Many fear the Commission has been created as a shield for political leaders who favor unpopular methods of deficit reduction, including increased taxes and cuts in Social Security and other popular federal programs.

The potential political fallout over the budget has many Members of Congress and the administration worried. The present administration would like to continue the deficit calculations as they are now, since to do otherwise would reveal a deficit much higher than presently indicated. Many Democrats, on the other hand, are anticipating a victory in the November elections and are anxious to uncover the true depth of the deficit before the next president takes over. The National Economic Commission is not required to report its findings until March 1989.

Dorgan and Ms. Oakar are hoping to build a consensus among members of Congress that a more realistic approach should be taken in order to preserve the future of the Social Security System, and to unmask the deficit problem so that it can be dealt with. They are also seeking approval from those who are highly respected in Washington for their opinions on Social Security and other senior issues.

Other legislation pending that would remove the Social Security Trust Funds from the budget process includes S. 2211, introduced by Senator Terry Sanford, D-N.C., establishing 1990 as the target date for the new deficit calculations that would not include Social Security.

Also, Rep. Buddy MacKay, D-Fla., has introduced House Concurrent Resolution 279 which would establish a sense of the House that legislation to resolve this problem should be passed within five years. Earlier this year, Senator Lawton Chiles, D-Fla., offered a similar amendment to the budget resolution, but the amendment was tabled.

[From the Washington Post, June 29, 1988]

DON'T RAID THE SOCIAL SECURITY NEST EGG

(By Alan S. Blinder)

The secret is out. Something that students of the Social Security system have known since 1984 is not creeping into the public consciousness and into the minds of politicans: the Social Security trust fund is already generating surpluses, which will cumulate to huge amounts in the first quarter of the 21st century before declining in the next quarter of century. After that, the system may well run out of funds.

The Social Security bulge was created when Congress adopted the Greenspan commission's recommendation to transform Social Security from approximately pay-as-you-go to a more or less funded system in 1983. Under the former pay-as-you-go system, each year's payroll tax receipts roughly covered that year's benefits. The trust fund picked up any surplus or made good any deficit, but was mostly an accounting fiction; its balance typically amounted to less than one year's outlays. The funded plan we now have works quite differently. The trust fund is scheduled to accumulate trillions of dollars and subsequently spend them on benefits.

Why the change? After all, pay-as-you-go worked beautifully for generations of Americans, almost all of whom received more in benefits than they had contributed in taxes. The answer is that demography dictated the change. Because birthrates were so high during the postwar baby boom and have been so low recently, the retired population will grow much faster than the working population after about 2010. Pay-as-you-go financing would then require either sharply higher payroll taxes or sharply lower benefits. The Greenspan commission wisely concluded that this would be unwise and recommended instead that the system accumulate a huge fund while the baby boomers are working and spend it down in their retirement years.

How large the trust fund will grow is impossible to say, for it depends on the evolution of such things as fertility, real wages and real interest rates. Predicting these variables 50 or 60 years ahead is hazardous,

to say the least. Under the "moderately pessimistic" assumptions of the Social Security actuaries, the trust fund, which is now under $100 billion, will eventually surpass the astounding sum of $12 trillion and then shrink rapidly. In more meaningful terms, it will rise from about 2 percent of GNP now to more than 30 percent of GNP around the year 2020—and then fall, hitting zero by about 2050 and continuing into the red.

Whatever the true magnitudes, the unprecedented rise and fall of the trust fund presents both opportunities and perils. For example, the current version of Gramm-Rudman-Hollings dubs Social Security "off budget," but nonetheless counts both its income and its outlays in assessing compliance with its deficit-reduction targets. Hence the rising Social Security surplus will make it much easier to meet the Gramm-Rudman targets between now and 1993. The Congressional Budget Office estimates that the annual surplus will be about 1.5 percent of GNP in fiscal year 1993. That means that the balanced-budget target for that year translates into a deficit in the non-Social Security budget of 1.5 percent of GNP, which is well within historical norms and certainly attainable.

But the biggest problems and opportunities come later, when the battle over the disposition of the Social Security bulge will be fought.

The danger is clear. With chronic surpluses in the government budget and trillions sitting in the Social Security kitty, future legislators surely will be tempted to spend some of the largess on worthy causes. This we must resist, for it we fail to squirrel the money away, we will not have the wherewithal to pay the retirement bills when they come due. Congress must realize that the multitrillion-dollar nest egg that will be incubating in the trust fund is not spare money; it is already spoken for. Indeed, it may not be enough.

On the other hand, if we manage to save the coming Social Security surpluses, we'll have a historic opportunity to transform the United States into a low-interest-rate, high-investment society unlike any we have seen in years. According to the actuaries' "moderately pessimistic" projections, assets in the trust fund when it peaks (as a share of GNP) around 2020 may approximate the entire national debt. If the fund continues to invest solely in Treasury securities, it may therefore be able to eliminate the public debt. That, in itself, would give interest rates a mighty shove downward and investment a corresponding shove upward.

But there is even more potentially good news—and an even greater peril. Some fear that persistent large federal budget surpluses will be a drain on economic activity. And if we bungle the job, their fears will be well founded. But if the Federal Reserve does its job well and compensates for fiscal stringency with even lower interest rates, we can replace lower consumption by higher investment while maintaining adequate aggregate demand.

The stakes clearly are high. To win the battle over the Social Security bulge, we need enlightened fiscal and monetary management, which history shows to be elusive. However, one small accounting change might help. If we take Social Security truly off the budget when Gramm-Rudman II expires in 1993 and focus congressional attention on the non-Social Security budget, future members of Congress may be less tempted to spend what they do not have.

[From the Wall Street Journal, June 17, 1988]

THAT BIZARRE SOCIAL SECURITY SURPLUS

(By Irving Kristol)

All of a sudden, while public opinion continues to be dubious about the financial viability of the Social Security system, the possible emergence of an enormous surplus over the next 40 years in the Social Security trust fund is attracting a lot of attention in Washington. It is also creating immense perplexity among economists and legislators, who cannot figure out whether it is good news for the nation, or bad news, or some undecipherable mixture of the two.

The most commonly cited forecast is derived from the Social Security Administration's own statistics. It is based on relatively conservative assumptions and shows that, by 1993, the trust fund will be some $400 billion in surplus. By 1996, that surplus will be more than $600 billion and the "unified federal budget"—which includes Social Security revenue as income to the Treasury—could be in balance. The surplus then grows exponentially to $2.5 trillion in 2005 and perhaps $12 trillion in the 2020s. At that time, the fund—restricted by law to the purchase of Treasury securities—will own the entire national debt, and may even have to seek new avenues of investment.

In the following two decades, however, the fund is paid out in full to the new generation of senior citizens. By 2050 or thereabouts the surplus is back to zero.

BIPARTISAN COMMISSION

It sounds incredible, and may turn out to be fictional, but those projections are regarded as plausible by most economists who have looked into the matter.

How did it happen? Well, back in 1983, a special bipartisan commission was given the assignment of "fixing" the Social Security system, then perceived to be headed for bankruptcy, for the next 75 years. It did its own job with conscientious enthusiasm, increasing Social Security taxes, gradually raising the retirement age in the decades ahead, placing an unindexed tax on Social Security income for those in the upper-middle-income brackets, etc.

The trouble is that the assumptions it made about economic growth and growth in the labor force turn out to have been very, very conservative. In "fixing" Social Security, the commission unwittingly engaged in overkill. Not many people noticed this until recently, though Stuart J. Sweet, then legislative assistant to Sen. Paula Hawkins, was vigorously raising the issue back in 1985. Only now is he getting a serious hearing.

So what does it all mean? The problems posed by these projected surpluses are of a kind to give economists a severe case of vertigo. After all, if the Social Security trust fund were ever to own the entire national debt, what would happen to monetary policy? This is rather like asking an astronomer what would happen if the entire universe fell into one of those "black holes." The Federal Reserve Board would have no Treasuries to sell or buy, the banking system would be cut loose from its moorings, Treasury paper would become a species of "collectibles"—it is just not imaginable.

This is an extreme and unlikely case, to be sure, since it presumably won't be allowed to happen. But there are other more serious and less speculative issues that are being raised.

One such issue that has gained in urgency is whether income from the Social Security system should be counted against the operating deficit of the federal budget. The 1983 commission said it should not. Gramm-Rudman says it should. The arguments on both sides are powerful. In a sense, they represent a conflict between accounting and economic perspectives.

From an accounting point of view, Congress should not be allowed to count as income those revenues that go into a reserve fund, and the Social Security fund is, when all is said and done, precisely that. Remember: Those same projections that show a huge surplus in 2030 also show that in the following two decades, 2030-2050, all of this money will have to be paid out to Social Security recipients. So it would be utterly irresponsible for Congress to look at it as spending money.

On the other hand, from an economic point of view, tax revenue is tax revenue, and, in macro-economic terms, it makes no sense to "sterilize" such a substantial portion of government's revenues through what amounts to a system of large, forced savings. The negative impact on the economy could be severe, even disastrous.

I have to confess that I, along with many others, find much merit in both sides of this argument.

There are some cynical commentators who insist that, though the surpluses may turn out to be real, the problems they pose will not be, since our politicians will surely figure out ways to spend that money and reduce, or even eliminate, any surplus. Perhaps—but that won't be so easy, even if the cynicism about our politicians is understandable.

To begin with, there is a small group of analysts—actuaries, naturally—who insist that the "conservative" estimates on which the projections are based are themselves far too optimistic in their demographic and personal-income estimates. They insist that the Social Security system is actually still in the red, on an actuarial basis, and will remain so into the future. One such analyst happens to be the chief actuary of the Social Security agency itself, who has expressed his views in a memorandum to his superiors.

So long as he (and, one supposes, other actuaries working in this area) holds this ultra-conservative opinion, even though it be a minority opinion, will it be possible for Congress to lay its hot hands on those projected surpluses? I think not. Public opinion would be alarmed; the powerful senior citizens' lobby would be enraged.

But even if the actuarial fears are dispelled, it is unlikely that Congress would find it easy to "raid" the Social Security surplus. The problem it would confront is those last decades (2030-2050) of the scenario, when the surplus melts away to zero. Even though there is in fact a respectable economic case for converting that surplus into a one-year or two-year reserve—Barry Bosworth of the Brookings Institution has argued this case while urging a cut in Social Security taxes—it is hard to see how our politicians could justify a current expenditure of their children's (and our children's) Social Security entitlements. Even if it made economic sense, it would be, politically, a high-risk enterprise.

So it is possible to think, realistically, that those surpluses will actually happen. In which case, we are sailing in uncharted waters. Only Sweden has developed a social security surplus (now 30% of gross domestic product) that can serve as a precedent—a precedent, however, that is hardly a model for Americans.

SWEDISH STATISM

The Swedish surplus is invested in four streams: government bonds, housing bonds, "long-term capital projects" (whatever that means), and new issues of common stock. In effect, the socialist governments of Sweden have socialized the investment process while refraining from outright nationalization of the "means of production." It is, of course, no socialism in any meaningful sense of the term but simply collectivism, "statism." It is not a scenario likely to be attractive to the American people—especially since it is still too early to estimate its effects on the Swedish economy.

Where will it all end? This writer knoweth not. I would expect that, in the years ahead, various arguments for a greater "privatization" of the Social Security system—so that individuals have legal title to their "own" reserves, with considerable leeway on their use—will gain in popularity. Meanwhile, just in case, I think I'll go out and buy a couple of 30-year Treasuries for my grandchildren.●

ATLANTIC FINANCIAL

● Mr. HEINZ. Mr. President, a serious mistake has recently been brought to my attention concerning Atlantic Financial, the largest savings and loan association in my home State of Pennsylvania and one of the 25 largest thrifts in the Nation.

Earlier this year, Atlantic Financial was involved in an acquisition of a troubled institution with serious asset problems. It was in this connection, with Atlantic Financial's assisting FSLIC in its management of troubled loans of the prior institution, that Atlantic Financial was erroneously mentioned as a troubled institution in a recent report to Congress "Asset Holding Corporation Feasibility Study." The Federal Home Loan Bank Board, author of the report, has written a letter of explanation admitting its error in mentioning Atlantic Financial in this report.

Atlantic Financial is a stable, financially sound institution with a commitment to its customers as well as to the community. It is most unfortunate that one of the stronger members of the industry be mistakenly mentioned in this negative fashion.

Mr. President, I would like to see that the reputation of Atlantic Financial Institution is not damaged by an inadvertent inclusion in the Federal Home Loan Bank's report on troubled institutions. And I ask the Bank Board's letter of explanation admitting its error be printed at this point in the RECORD.

The letter follows:

Federal Home Loan Bank Board,
Washington, DC, June 22, 1988.

Re: Federal Home Loan Bank Board Report to Congress—Asset Holding Corporation Feasibility Study.

Mr. DONALD R. CALDWELL,
President and CEO, Atlantic Financial, Bala Cynwyd, PA.

DEAR MR. CALWELL: This is to confirm that the reference to Atlantic Financial Federal, page 43 of the report is totally in error. It was never our intention to classify Atlantic Financial as a troubled institution. It was our intention to spell out one method dealing with troubled loans and the fact that Atlantic Financial was cooperating with the FSLIC in assisting it in its management of troubled loans through Atlantic Financial's acquisition of a troubled institution with serious asset problems in West Virginia. Please accept our letter of explanation. If you believe it is necessary we will formalize this explanation and distribute it to those whom you believe may have been adversely affected.

Sincerely,

STUART D. ROOT.

RETIREMENT OF REVEREND LEON SULLIVAN

● Mr. HEINZ. Mr. President, I rise today to mark an historic moment for the congregants of the Zion Baptist Church in north Philadelphia and for all those concerned with racial equality and civil rights.

Last Sunday, the Reverend Leon Sullivan, after 38 years as spiritual leader of Zion Baptist, delivered his last sermon and retired to develop his vision of improved working conditions for developing nations.

I have the deepest admiration and respect for Leon Sullivan. Having worked with him for many years, I know him as a spiritual leader and activist in the cause of civil rights. I know his convictions and resolve in seeking a better life for the starving and oppressed has made a tremendous difference in thousands of peoples' lives. And I am fortunate also to know him as a friend and wise counselor.

Leon Sullivan is perhaps best known for what became known as the Sullivan principles. These guidelines for corporate behavior to resist the evil of apartheid in South Africa, and similar corporate codes of conduct elsewhere which they inspired, have made an impact on the lives of those living under unjust political systems.

I therefore take the floor today to pay special tribute to a man of courage and vision who brought a new awareness of rights and responsibilities not only to Philadelphia but internationally. I speak today in recognition of the tremendous fight he has waged to bring education and training to the disadvantaged that they might gain the opportunities so many of the rest of us take for granted. I want to profoundly thank him for all he has done for people in Philadelphia, throughout the United States and around the world.

Mr. President, in a very real sense Leon Sullivan's achievements are endless. They are endless because rather than retiring, he is, as he says, "ending a chapter in my life." He is off to Phoenix to develop an international foundation to provide training in agricultural technology, education, and health care for developing nations. I wish him the very best in his new endeavors.●

LONGS PEAK SCOTTISH HIGHLAND FESTIVAL

● Mr. ARMSTRONG. Mr. President, I rise today to call to the attention of my colleagues the annual Longs Peak Scottish Highland Festival in Estes Park, CO, held the weekend after Labor Day. This highlight of Celtic Festivals of the Rocky Mountains is a family oriented weekend that is both educational and entertaining.

Because of this Festival, Estes Park, CO, has become known as the "Camelot" of the United States. Honored guests of the festival include clan chiefs, generals, consulate heads, and Celtic leaders from Scotland, Canada, and the United States.

The 20,000 expected spectators will enjoy parades, concerts, an international tattoo, competitions of Scottish sports and of Scottish and Irish bands, dancers, and folk music. There will also be a British Isles dog and Highland cattle show.

The festival would not be complete without the gathering of clans, exhibitors, importers and the sale of Celtic crafts and foods. The Longs Peak Scottish Highlands Festival celebrates the early settling of Colorado by British Isles immigrants whose values, customs, and cultural heritage should not be forgotten.

I am sure that the rest of my colleagues will join me in wishing the very best success to the Longs Peak Highland Festival.●

BANKING REFORM

● Mr. GARN. Mr. President, on May 13, I spoke on the floor of the Senate, along with Senator DIXON, Senator GRAHAM, and Senator BOND, urging the House of Representatives to move on banking reform legislation. In my remarks, I noted that the United States was the only major country that did not permit commercial banks or their affiliates to underwrite securities and that even Japan, whose system has mirrored ours, permits certain affiliations between banks and securities firms.

I recently received a very fine white paper from Larry Uhlick of the Institute of International Bankers entitled "Global Survey of Permissible Activities for Banking Organizations in Major Financial Centers Outside the U.S." This study, prepared by the institute in cooperation with bankers' associations from nine countries surveyed and the European Economic Community, confirms my remarks and provides other insights on the trends in other countries to expand the powers of banks operating in their markets.

The study addresses a whole range of permissible activities, including insurance and real estate activities. But the most noteworthy finding of the study is that our own American banking organizations are participating in full securities activities to the same extent as local banks in the countries surveyed. Moreover, the news is even better in Japan. Our banks as well as other non-Japanese banks are permitted to own 50 percent of affiliates engaged in full securities activities in Japan, but this privilege is not accorded to Japan's own banks. Although I have spoken many times about Americans' lack of access to the Japanese market, I find this step to be encouraging. As pointed out in the institute's study, our banks are already conducting the securities activities overseas that the Senate has authorized in S. 1886. Thus, it is even more puzzling to me that the House has not moved on this critical subject.

The trend is clear that the rest of the world is expanding the powers of organizations that deliver financial services, subject to appropriate safeguards, while the House of Representatives sits on its hands. Because these activities are conducted overseas by our own banks, the issue for Congress now is: Are we going to let the competitive position of financial markets in the United States deteriorate as compared to the rest of the world?

I want to thank the institute for its valuable contribution that will aid our deliberations on the important subject of banking reform.●

JUANA BORDAS

● Mr. WIRTH. Mr. President, as education issues assume an increasing proportion of the Senate's deliberations, the dropout problem is one area that deserves our special attention.

In Denver, community activist Juana Bordas has been working with the public school system to implement an innovative and exciting program to bring special support to high risk students.

We are proud of her efforts and extremely hopeful about the potential for success in stemming the dropout tide. I commend the following article, which appeared in the Rocky Mountain News on June 6, to my colleagues for their review.

The article follows:

ACTIVIST PUSHES COMMUNITY INVOLVEMENT

(By Amanda Covarrubias)

Juana Bordas is a fast-talking woman with the energy to rival a classroom of teenagers.

For the past eight months, the longtime Denver community activist has been working to get her latest project—Cities in Schools—off the ground.

The program, now under way in 21 U.S. cities, will place city social service workers in Denver schools to help students deal with the personal and emotional problems that often cause them to drop out.

"We have a real dilemma," she said. "Under compulsory education laws, students have to go to school, but half of them aren't going, and the ones that are there aren't satisfied."

Cities in Schools recognizes what district officials have been saying for years: Schools alone cannot combat the dropout problem. In many cases, children who drop out suffer from low motivation and parental disregard.

"Half the kids in Denver Public Schools come from single-parent families," she said. "Schools are now the dominant institution in America to serve youth, and schools have got to accept that role."

Denver is following the model of other cities around the country that have worked successfully to foster community involvement in schools to combat soaring dropout rates.

Bringing city social workers into the schools would be another step in the "restructuring" of the public school system into a collective of private and public agencies and organizations working together to improve it. Bordas said.

"We need to get others to participate to build some sort of power base," she said. "And it's got to be businesses, because they're the only ones with the political power to pressure the legislature. And they receive the finished product."

Part of the challenge for Bordas and others working to stem the soaring dropout rate is to determine why students drop out. But the reasons are complex, and there are no simple solutions:

There is the boy whose parents do not speak English and keep him out of school so he can serve as a translator between them and their attorneys.

There is the girl who stays out of school to baby-sit her younger sister and brother while their mother goes to the welfare office.

There is the boy who does not make it to school in the morning because he was up all night while his mother and her boyfriend were fighting.

There are the children who stay away from school because they are ashamed of their shabby clothes.

More than anything, students who drop out of school wrestle with the sinking feeling that "nobody cares," says Virginia Castro, head of social services for DPS.

That's where Cities in Schools comes in. A social worker would lend a sympathetic ear to students with problems too overwhelming to cope with alone, and provide the encouragement a wayward kid needs to stay in school.

But mere talk cannot resolve some of the problems kids carry with them to school. For example, a drug-dependent teen-ager might be referred to a counseling center. Or better yet, "let the kid spend some time in a drug-prevention group at the school," Bordas said.

The point is to bring the services to the schools, where the kids—and the problems—are.

A Cities in Schools program in nine Texas school districts has a 95% retention rate for the 5,000 students enrolled, according to the state program director there.

Moving Denver social workers into pilot programs at Manual, North and Montbello high schools and three alternative high schools in the Metropolitan Educational Youth Centers program will cost about $175,000.

They would bolster an overtaxed team of 52 DPS social workers for 110 schools.

Local businesses and industry will be asked to provide jobs for students. Those jobs will be rewards for learning certain skills and getting good grades, Bordas said.

In other cities, including Houston and Washington, Cities in Schools relies heavily on corporate sponsorship.

Because Bordas has had difficulty raising money to get Cities in Schools going, she will merge the operation with another fledgling-group, the Colorado Coalition on Dropout Prevention. The statewide project, run by longtime educator Bernard Valdez, has identical goals. The groups will share resources and money.

By merging, they also will avoid the duplication of effort that causes some dropout prevention programs to trip over each other.

"There's a lack of coordination," Bordas said. "A lot of programs take a piece of the action, but no one puts it together."

Bordas speaks from experience.

Her involvement in dropout prevention dates to 1978, when she started Mi Casa, a program to help Hispanic women learn job skills. In 1979, she started the companion program, Mi Carerra, to teach young women self-improvement and school survival skills.

She is adept at shaking dollars loose from the business community to support educational programs.

"If you tell business people that 50% of your clients are not coming back, that fewer than 50% of them read at adequate levels and that 80% lack important skills, that gets their attention," she said.

She points out that no accountability or quality control exists for schools, unlike businesses that must succeed or go under.

More than anything, Bordas is an optimist with the kind of foresight that some say DPS needs to induce radical change.

"Change is going to happen," she said. "Obviously, there's enough people upset, it is going to happen—from within or from without."●

NINETIETH ANNIVERSARY OF ZOA

● Mr. D'AMATO. Mr. President, this year, the American people joined with Jews the world over to celebrate the 40th anniversary of the State of Israel. This milestone of modern history stood as a symbol of the enduring strength of Judeo-Christian values and the mutually beneficial relationship the United States and Israel have shared over the years. As we look forward to a future of continued prosperity and security for Israel, it is only appropriate that we commemorate the anniversary of an organization who plays a continuing role in fostering strong United States-Israel ties.

The Zionist Organization of America was born on July 4, 1898 in New York, as an umbrella organization for 5,000 members of 36 Zionist groups. On that American Independence Day, the ZOA members came together to express their unified dedication to the formation of a state based on the same democratic ideals as the United States, and to serve as a haven for Jews from across the world.

In ensuing years, as the ZOA expanded into Philadelphia, Pittsburgh,

Cleveland, Baltimore, and other cities, activities essential to the strengthening of the American Jewish community and the creation of Israel, such as the promotion of Hebrew language and the establishment of the Jewish National Fund, were undertaken. Later, American Jews would come to experience their vibrant heritage through Young Judea, Hadassah, and a host of other organizations sprung from the ZOA.

In 1917, under the leadership of Louis Brandeis, ZOA was instrumental in the events that led to the issuance of the Balfour Declaration. During the 1940's, ZOA and its members' groups came together to adopt the Biltmore Program, in which the establishment of the Jewish state was clearly defined as the goal of Zionism. By 1944, both the Democratic and Republican platforms included strongly pro-Zionist positions. President Franklin Roosevelt pledged his support for a Zionist solution to the Palestinian problem in an address before the ZOA.

Leaders in the ZOA were decisive in the postwar events that led to the ultimate creation of a Jewish state. Their unswerving commitment to the Biltmore Program helped bring the question of Palestine to the United Nations, where the world community voted on May 14, 1948, to establish the State of Israel.

Since then, the efforts of ZOA in support of Jewry in Israel, in the United States, and worldwide has extended over a broad range of essential services. The Masada program sends over 800 young men and women to Israel yearly. The ZOA House in Israel brings the Jewish cultural experience to 25,000 people visiting Israel each month. Garin Masada opens the doors for life in Israel to the hundreds of recently arrived Ethiopian Jews.

ZOA has been a leader in the fight for greater access to United Nation files on Nazi war criminals, for closing PLO offices in Washington and New York, and for strengthening the close military, economic, and strategic relationship between the United States and Israel.

For nearly a century, ZOA has stood ready to promote the interests of Jews in America, and, for the past 40 years, in the State of Israel. By fostering the special ties between our two nations and by being committed to the unity of the Jewish people, the ZOA is a major influence in the world Jewish community today, and will be for many years to come. I ask that my colleagues join me in honoring ZOA during its milestone 90th anniversary.●

CRISIS AT SMALL BUSINESS ADMINISTRATION

● Mr. BUMPERS. Mr. President, I am deeply concerned by the lack of progress in the House of Representatives on the fiscal year 1988 regular supplemental appropriations measure. In one particular area, disaster lending by the Small Business Administration, Members of Congress should be aware that a crisis is upon us.

Administrator Abdnor, our former colleague, has written to me explaining the dire straits in which SBA finds itself. In a nutshell, SBA is up against the Anti-Deficiency Act. No matter what happens, no more disasters can be declared or serviced by the agency until the supplemental is enacted. As Senators know, tragedy can strike at any time. SBA has borrowed against future budget authority, and they are at the end of their rope.

We will soon be entering the hurricane season, and in my part of the country, tornadoes and thunderstorms are most active in the spring and early summer. No matter what happens, SBA will not be able to come to assistance with loans for homes and businesses damaged by the storms until Congress acts. I would add that the disaster situation this year was very costly because of earthquakes in California last year, flooding in Puerto Rico, and tropical storms in the Pacific affecting Guam and other American territories.

Mr. President, I would add that this situation is unfortunately typical of many important programs, in which we on the Appropriations Committee have been forced to play Russian roulette with public health and safety because of the constraints imposed by the Federal deficit and the Gramm-Rudman law. Many programs have been knowingly underfunded with the hope and the prayer that somehow we will make it through.

I ask that Senator Abdnor's letter to me be reprinted in the RECORD at this point.

The letter follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, June 6, 1988.

Hon. DALE L. BUMPERS,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In my letter of May 18, 1988 I advised you of the need for the additional funding for the Agency's Disaster Assistance activity that was contained in the Administration's March 17, 1988 supplemental request. The letter pointed out the steps that the Agency was considering in order to cope with the Salary and Expenses shortfall. However, the need for additional operating funds has become so acute as to require further action to avoid the unlawful expenditure of funds which have not been appropriated.

Accordingly, I have determined that, beginning June 3, 1988, it is necessary to cease to consider any requests for disaster declarations, or to issue an SBA declaration pursuant to the declaration of a major disaster by the President, or to designate an economic injury disaster loan area pursuant to a designation by the Secretary of Agriculture, until either a supplemental appropriation for the current fiscal year is approved, or an appropriation for the fiscal year beginning October 1, 1988 is approved.

Further, there can be no assurance that the Agency will be able to accept or process applications for disasters already declared, or make disbursements on loans already approved, until additional funds are available.

Again, I want to assure you that we are doing everything possible in order to continue the necessary functions of this program. However, if relief is not to be provided by the end of June, we will have no other choice but to further reduce or shut down disaster loan-making and servicing efforts in order to avoid any possible anti-deficiency problems.

If you have any questions in response to this serious funding situation, please feel free to call me at your convenience.

Sincerely,

JAMES ABDNOR,
Administrator.●

47TH ANNIVERSARY OF THE RESTORATION OF UKRAINIAN INDEPENDENCE

● Mr. RIEGLE. Mr. President, June 30 of this year will mark the 47th anniversary of the restoration of Ukranian independence, brought about when brave Ukrainian nationalists rose up to fight off the armies of Nazi Germany and the Soviet Union. Although free for only a short time, the establishment of Ukraine as an independent state testified to the Ukrainian people's courage and commitment to liberty.

In celebrating the Ukrainian people's victory over the Nazis and the Soviets, and the brief period of freedom they heroically won, we remember those who provided powerful and inspired leadership, and the bravery of those who joined with their countrymen to defeat the two invading forces.

We honor the thousands of Ukrainian nationalists who were arrested by the Gestapo for their participation in the restoration of the Ukrainian state. And we remember that the brutality of the Nazis, and that of the Soviets which would follow, was unable to silence the Ukrainian resistance movement.

On this anniversary, remember that the fight for national liberation that came to a head 47 years ago, set the tone for the freedom struggle that continues today. The goal of restoring a free and sovereign Ukrainian state lies at the heart of the Ukrainian resistance movement today, and is personified by Yuriy Shukhevych. Until his recent release, Shukhevych had been imprisoned for more than 35 years for his refusal to renounce the beliefs of his father, Gen. Roman Shukhevych of the Ukrainian Insurgent Army. Known as the eternal prisoner, Yuriy Shukhevych is still not free, as he is now forced to live under restrictions imposed by Soviet authorities.

Today, we call on the Soviet authorities to honor the fundamental rights of this man, whose steadfast support

for Ukrainian nationalism and human rights has made him a symbol of heroism not only for Ukrainians, but for all mankind.

It is the memory of the triumph of 1941 that is our inspiration as we devise new strategies to penetrate the Soviet system and promote the forces of freedom in Ukraine. Although the weapons we use today are different from those used by the freedom fighters 47 years ago, our commitment to victory is no less than theirs.

We in the West must work to turn the concept of glasnost into an important opportunity for activists in Ukraine to advance the cause of freedom and human rights there.

During this period of peristroyka and glasnost, the Ukrainians must do as the citizens of the Baltic States have done. They must challenge the Soviets to acknowledge the atrocities of the past and to end the persecution which continues today.

We can help in that effort by awakening the world to the realities of the Soviet occupation of the Ukrainian nation, which has been so brutal and painful for its people. By continuing to support the activities of the Voice of America and Radio Free Europe/Radio Liberty, we ensure that vital information reaches the captive Ukrainian people, better enabling them to wage their fight for freedom.

If the Soviets are sensitive to protecting their international reputation when confronted with inhuman facts, then we must work each day to force these facts out into the open. Our outcries often become key links in the chain of events that has for some, ultimately, meant freedom.

On this anniversary of Ukrainian independence, we send a message of courage, hope and solidarity to those struggling now to regain their lost freedoms in Ukraine. The emergence of a new generation of human and national rights activists clearly demonstrates that the hope for a free Ukraine and self-determination for its people continues to live in the hearts and minds of all Ukrainians—even those who have never known freedom.

To all of them, we pledge our steadfast support, as they continue to take risks for freedom, and we reaffirm our belief in the God-given right and destiny of all people to enjoy freedom in their homeland.●

TECHNOLOGY IN NEW MEXICO IS WORLD CLASS

●Mr. BINGAMAN. It was recently my great pleasure to attend a celebration honoring the signing of a contract between the Digital Equipment Corp. and Sandia National Laboratories, two organizations located in Albuquerque, NM. Sandia has awarded a $2.5 million contract to Digital Corp. to purchase VAXstation 2000 computer work stations.

Digital was selected after an extensive worldwide competition, which culminated in the discovery that the highest quality, best technology, and best buy for Sandia's money was in its own hometown. The VAXstation 2000 is a major product of Digital's Albuquerque plant, and delivery of the stations to Sandia is expected in September 1988. Earlier, the VAXstation 2000 was chosen by the U.S. Air Force as its scientific and engineering work system.

The Albuquerque plant is also Digital's computer terminal production facility. Recently, the U.S. Census Bureau decided to use Albuquerque-built Digital terminals to help in the automation of the 1990 census. These contracts, and Digital's earlier decision to move production of the VAXstation 2000 to Albuquerque, are a tremendous vote of confidence for the workers and management of the Albuquerque plant and for the future of technology-based manufacturing in New Mexico.

As the Digital decision shows, the corporations that choose New Mexico as their location benefit greatly from the proximity to other leading facilities and the wide-open opportunity for advancement in technology. Digital itself has obviously been successful in its relationship with New Mexico, as its Albuquerque plant has been recognized as a flagship operation. The plant won this honor because of its use of state-of-the-art manufacturing techniques.

Honors such as these are a further indication of the rapidly expanding field of technology in New Mexico. We have in the Rio Grande corridor one of the largest concentrations of science and technology activity in the Nation. For example, Sematech, the joint industry-Government research consortium for semiconductor manufacturing, recently decided to award New Mexico—one of only five States—a grant to establish a University Center of Excellence. Facilities such as these will help New Mexico lead the way in technological advances nationally and internationally. The contract between Digital and Sandia is an example of this tradition of advancement and excellence.

With the continued involvement of companies such as Digital in New Mexico, the State's technological future looks very bright. As the world enters a new age of scientific advancement and computer technology, the United States can be confident of its place in the competition, thanks in part to the work being done in Albuquerque.●

COSPONSORING S. 2466 AND SENATE JOINT RESOLUTION 326 THE LYME DISEASE INFORMATION GRANT PROGRAM AND "LYME DISEASE AWARENESS WEEK"

● Mr. D'AMATO. Mr. President, I rise today to cosponsor two pieces of legislation introduced recently by my colleague, Senator MOYNIHAN. The first is S. 2466, a bill to establish a program of grants to States to provide information of the diagnosis, prevention, and control of Lyme disease. The second, Senate Joint Resolution 326, National "Lyme Disease Awareness Week," will bring this disease into the open and facilitate a greater recognition of its symptoms among the general public.

This debilitating disease was first diagnosed 13 years ago in Lyme, CT. A tick-borne disease, Lyme disease has spread to more than 33 States from coast to coast and has already reached epidemic proportions in some States. In Westchester County, NY, nearly 550 cases were reported last year. Nationwide, more than 6,000 cases of Lyme disease have been reported to the Centers for Disease Control in the last 6 years.

The symptoms of Lyme disease are often hard to place due to their close resemblance to a host of other ailments. The early symptoms of Lyme disease often include a rash at the site of the tick bite accompanied by a fever, headaches, stiff neck, and muscle aches. Often, these relatively common physical symptoms are ignored by persons who feel that nothing is seriously wrong. However, if left untreated, Lyme disease can cause meningitis, heart disease, paralysis, encephalitis, arthritis, and in extremely rare cases, it may cause death. The real tragedy is that treated early, Lyme disease is easily cured. It is obvious to me that something must be done to stem the spread of this emerging public health threat.

I believe that, together, the two bills I am cosponsoring today will help greatly to curtail Lyme disease. S. 2466 will provide $2.5 million in grants to assist States in providing information on the diagnosis, prevention, and control of Lyme disease. This will help doctors and other health care professionals to recognize and treat the symptoms of this disease. Senate Joint Resolution 326, by designating July 24–30, 1988, as National "Lyme Disease Awareness Week," will inform the public about the threat of Lyme disease, and the means to prevent it. Mr. President, I support these two bills wholeheartedly, and I urge my colleagues to join me in cosponsoring them.●

JOINT STATEMENT OF CHAIRMAN HEFLIN AND VICE CHAIRMAN RUDMAN

● Mr. HEFLIN. Mr. President, on behalf of Mr. RUDMAN and myself, by vote of the committee the following statement and proposal is submitted:

On September 4, 1980 the Senate adopted Senate Resolution 508 (96th Congress), which provides: "Nothing in the provisions of the Standing Rules of the Senate shall be construed to limit contributions to defray investigate, civil, criminal, or other legal expenses of Members, officers, or employees of the Senate relating to their service in the United States Senate, subject to limitations, regulations, procedures and reporting requirements as shall be promulgated by the Select Committee on Ethics."

Pursuant to that Resolution, on September 11, 1980, the Senate Select Committee on Ethics caused to be published in the Congressional Record for a ten day period of comment from interested parties, proposed Regulations Governing trust funds to defray legal expenses incurred by Members, Officers, and employees of the U.S. Senate by the committee.

The committee now proposes to adopt amendments to the existing regulations, and publishes the following draft amendments on which we invite comments. It is the committee's intention to receive comments for a period of 20 days. All comments must be received by the close of business (5 p.m.), on July 19, 1988. We ask that comments be in writing, and that they be directed to the Select Committee on Ethics, U.S. Senate, Room 220, Hart Senate Office Building, Washington, D.C. 20510.

A brief explanation by the committee of the need for consideration of the amendments accompanies the proposal.

PROMULGATION OF DRAFT REGULATIONS GOVERNING LEGAL EXPENSE FUNDS

COMMITTEE EXPLANATION TO ACCOMPANY PROPOSED AMENDMENTS TO REGULATIONS PROMULGATED PURSUANT TO SENATE RESOLUTION 508

Senate Resolution 508 (96th Congress), and the Regulations adopted pursuant thereto, arose in recognition of the fact that Senate Members, officers, and employees may find it necessary to defend themselves against charges (or, in a rare case, to initiate a civil lawsuit) in proceedings which would not have arisen but for their positions, or by virtue of their service in or to the United States Senate. The expenses of such investigative, civil, criminal, or other legal proceedings could be substantial, thereby requiring Members, officers, and employees to avail themselves of contributions from friends, supporters, constituents, and others in order to defray their legal expenses. The committee wanted Members, officers, and employees of the Senate to be on an equal footing with the public generally regarding the raising of funds to defray legal expenses. Thus, the regulations adopted in 1980 permitted a Senate Member, officer, or employee to establish a legal expense trust fund and accept contributions to defray legal expenses in connection with legal proceedings related to or arising by virtue of service in or to the Senate. A limit of $5,000 per contributor per fiscal year was imposed.

Since the Regulations were established in 1980 the cost of legal services has risen markedly, and the potential cost of defending oneself in a complex case can be overwhelming. The committee also observes that, as compared to the situation in 1980, many lawyers and law firms now have well established pro bono practices available to the general public in cases of need or cases with significant legal issues or important public policy implications.

Therefore, the committee is proposing amendments to the Trust Fund Regulations which would:

First, raise the annual contribution limit from $5,000 to $10,000.

Second, allow acceptance of pro bono legal services in excess of the $10,000 limit in any legal proceeding where the Senate Member, officer, or employee is a defendant; and in any legal proceeding where the Senate Member, officer, or employee is not a defendant, permit acceptance only where allowed by the committee in its sole discretion.

Third, require that the individual or firm (including all members, associates and employees of the firm) providing pro bono services with a value in excess of the $10,000 limit consent and agree not to lobby the Member (including all persons supervised by the Member), officer or employee for whom services are provided during the pendency of the proceeding and for a period of 6 months thereafter.

Fourth, require disclosure of fair market value of services received, and the name and address of the individual or firm providing services, but would not require disclosure of all individuals within a firm who are providing services.

REGULATIONS GOVERNING TRUST FUNDS TO DEFRAY LEGAL EXPENSES INCURRED BY MEMBERS, OFFICERS, AND EMPLOYEES OF THE U.S. SENATE

CHAPTER THREE—CONTRIBUTIONS

B. How Much May Be Contributed

Contributions from any one source to a legal expense trust fund, when aggregated, shall not exceed $5,000 *[$10,000]* per fiscal year of the trust fund. This limitation shall not apply to the Member, officer, or employee establishing a trust fund, or any relative (as the term "relative" is defined in Section 107(2) of Title I of the Ethics in Government Act of 1978, 2 U.S.C. Section 707(2)) of such individual.

Subject to the qualifications of this paragraph, the above limitation shall not apply to the provision of pro bono legal representation where the member, officer, or employee is a defendant in a legal proceeding. In a legal proceeding where the Member, officer, or employee is not a defendant, pro bono legal representation with a fair market value in excess of the above limitation may be accepted only where the Committee determines, in its sole discretion, that the limitation does not apply. Pro bono legal representation with a fair market value in excess of the above limitation may be accepted in a legal proceeding by a defendant (or as permitted by the Committee in its discretion where the Member, officer, or employee is not a defendant) only from law firms (or lawyers) approved by the Committee, subject to such conditions as the Committee may prescribe.

Any individual or firm providing pro bono legal services with a fair market value in excess of the above limitation, and any Senate Member, officer, or employee accepting such services, hereby expressly consents and agrees that the individual or firm providing such services may not lobby the Senate Member, officer, or employee for whom services are provided, during the period when such services are being provided and for a period of 6 months after pro bono representation is terminated. Lobby shall be interpreted in a manner consistent with the meaning given the term "lobbying" in Senate Rule 37(10)(c). An individual or firm who may not lobby a Senate Member may also not lobby persons supervised by the Member as determined by Senate Rule 37(11). Where a firm is prohibited from lobbying, then all members, associates and employees of the firm are also prohibited from lobbying.

CHAPTER FOUR—DISCLOSURE AND REPORTING REQUIREMENTS

B. What Must Be Reported

All reports filed pursuant to this Chapter shall include the name and address of each contributor who has contributed during the calendar quarter and whose contributions during the fiscal year exceed $25, and the total amount of contributions by such contributor during the calendar quarter.

All reports shall also include the name and address of each individual or other entity to which an expenditure from the fund has been made during each calendar quarter, along with a brief description of the nature and the amount of each expenditure.

Any Member, officer, or employee accepting pro bono legal services (pursuant to the terms of Chapter Three, section B. of these regulations) must report with respect to such services: the name and address of the individual or firm contributing such services; and the fair market value of services provided by such individual or firm.●

HONORING STANLEY KRAJEWSKI

● Mr. LEVIN. Mr. President, on July 14, the Polish American Congress will honor Stanley Krajewski on the occasion of his retirement as editor-in-chief of the Polish Daily News of Detroit. His retirement comes after 40 years as a reporter, staff writer, and editor. He has served as editor-in-chief for 25 years.

But Stanley Krajewski is more than a newspaperman, and a fine one. He is also a leader in the Polish American community, devoting his time and efforts to the Polish National Alliance, the Polish Roman Catholic Union of America, the Polish Falcons of America and the Polish American Congress. He is also a generous friend, benefactor, and advocate of the Orchard Lake Schools.

Stan is also well-known in Michigan for his work in promoting good relations between men and women of different backgrounds. He has been active in the International Institute of Detroit and the Polish-Black Conference. He initiated Catholic-Jewish dialog in the Detroit area. Stan's whole life testifies to the fact that one can be a proud and devoted member of one's own community without sacrificing interest in and concern for the general community. Indeed, in America, our devotion to our country while preserving our own ethnic diversity is a basic element of our pluralistic society.

Stan has received many honors for his outstanding leadership over the years. Among them are the Golden Cross Polonia Restituta from the Polish Government-in-Exile, the Governor's Merit Certificate, the Silver Cross of the Legion of Honor of the Polish Falcons of America and special recognition from the Kosciuszko Foundation of New York City. In 1984, the International Institute inducted Stan into the International Heritage Hall of Fame.

Mr. President, I am proud to salute and congratulate Stan Krajewski on his retirement. He is a good friend and a good man and I know that his retirement does not mean that he will be less active in the community work to which he has devoted so much of his life. My wife, Barbara, joins me in congratulating Stan; his wife, Nina; their two daughters, Corinna and Renata; and three grandchildren, Ashley, Owen, and Trever. Stan Krajewski's life and works have benefited us all. We cheer him on with a traditional and warm "sto lat."●

CONGRATULATIONS TO KATRINA ADAMS OF CHICAGO, IL

● Mr. SIMON. Mr. President, on Monday the almost fairy-tale success of 19-year-old Katrina Adams of Chicago, IL, came to an end at Wimbledon. Katrina, who faced the queen of women's tennis, Chris Evert on court No. 2, had exceeded everyone's hopes and perhaps even her own dreams by winning three successive matches at the all English tennis championships.

Katrina Adams, a professional tennis player for only 6 months and ranked 338 on the ATP computer, had one goal when she came to Wimbledon—win one match in a grand slam tournament. She not only achieved that goal, but she did much better! She won her first match against Valda Lake, 6–3, 6–2, as well as her second contest against Natalie Tauziat, 2–6, 6–4, 6–4, after dropping the first set. She then faced a major challenge—the 15th seeded player at Wimbledon, Sylvia Hanika. She not only won, but she defeated her highly rated opponent convincingly, 6–3, 6–3 by being aggressive at the net and beating Ms. Hanika at her own serve and volley game.

Katrina Adams discontinued her studies at Northwestern University to concentrate on her tennis. She is the daughter of two school teachers from Chicago, who began playing tennis in the Chicago Parks League at age 6. At age 7 she won her first tournament in 10 and under competition in New Orleans, LA.

Although she lost on Monday to one of the all-time great players in Women's Professional Tennis, I am confident that she will join Althea Gibson—the only black woman ever to win the championship at Wimbledon—as a true tennis star. We in Illinois are proud of her accomplishment and wish her much success in the future.●

DESIGNATING THE JOHN J. DUNCAN FEDERAL BUILDING, KNOXVILLE, TN

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 4288 and that the Senate proceed to its immediate consideration.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4288) to designate the Federal building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Building."

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there is no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4288) was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

RESOLUTION COMMENDING J. LEWEY CARAWAY ON THE OCCASION OF HIS RETIREMENT

Mr. BYRD. Mr. President, on behalf of Mr. BUMPERS and others, I send a resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

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

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 447) commending J. Lewey Caraway on the occasion of his retirement.

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

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

Mr. BUMPERS. Mr. President, I am pleased to sponsor along with Senator PRYOR and others this resolution commending J. Lewey Caraway, whom we all know, respect, and love, upon his retirement as Superintendent of Senate Buildings after an unbelievable 58 years of employment with the Senate.

Lewey Caraway, the nephew of Senators Hattie and Thaddeus Caraway, of Arkansas, is a Senate institution. He began his service to the Senate in 1931 and became Superintendent of Senate Buildings in 1949. He was always here, except on those occasions when he could manage to break away and go fishing, a pastime he dearly loved. During his tenure, Senate building space grew dramatically from one to three office buildings for Senators.

Lewey Caraway was the man behind the scene. He endured our complaints, and those of the Senators who preceded us, for a lifetime. We always contacted him when something went wrong; he seldom heard from us when things went right as they usually did. He was at the heart of this institution, a man of quiet dignity who got things done.

And so it is fitting to pass this resolution commending Lewey Caraway and thanking him in this quiet but dignified way for his remarkable years of service. We will miss him, and we will not forget him. May his years of retirement be restful and rewarding.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 447) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 447

Whereas, on June 15, 1988, J. Lewey Caraway retired from service as the Superintendent, Senate Office Buildings after almost fifty-eight years of service to the United States Senate.

Whereas, "Lewey" has served the United States Senate with honor and distinction since joining the staff of the Architect of the Capitol and assigned to the Office of the Superintendent, Senate Office Buildings in 1931;

Whereas, his hard work and outstanding abilities resulted in his appointment to the position of Superintendent, Senate Office Buildings on October 1, 1949;

Whereas, "Lewey" has at all times executed the important duties and responsibilities of his office with great efficiency and diligence; and

Whereas, J. Lewey Caraway has demonstrated dedication and loyalty to the United States Senate as an institution and leaves a legacy of superior and professional service: Now, therefore be it

Resolved, That the United States Senate expresses its deep appreciation and gratitude to J. Lewey Caraway for his years of faithful and exemplary service to his country and to the United States Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to J. Lewey Caraway.

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

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

The motion to lay on the table was agreed to.

TO HONOR THE MOST REVEREND FRANCIS T. HURLEY, ARCHBISHOP OF ANCHORAGE

Mr. COHEN. Mr. President, I send to the desk a resolution on behalf of Senators STEVENS and MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 448) honoring the Most Reverend Francis T. Hurley, Archbishop of Anchorage, for his contributions to the city of Anchorage.

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

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 448) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 448

Whereas, The Most Reverend Francis T. Hurley has served Alaska since 1970 when Pope Paul VI named him Bishop of the Diocese of Juneau where he worked to improve the community until 1976 when he was appointed as the Second Archbishop of the Archdiocese of Anchorage;

Whereas, Archbishop Hurley has been deeply involved in improving the life of the common man and has developed programs for the elderly, the sick, the hungry and the homeless, and those in despair;

Whereas, Archbishop Hurley has been an outspoken advocate of family unity and has been instrumental in providing services for children, working families, unwed mothers, and battered women;

Whereas, Archbishop Hurley has played a leading role in developing educational programs for young Alaskans and has worked tirelessly to promote development of Alaska's resources through his participation in the Resource Development Council;

Whereas, Archbishop Hurley has been the driving force behind the Brother Francis Shelter which has provided an opportunity for all Alaskans to get involved in their community;

Whereas, Archbishop Hurley's achievements have been recognized by the Anti-Defamation League which has named him as the first Alaska recipient of the Torch of Liberty Award;

Whereas, Archbishop Hurley has lived the greatest commandment, "Do unto others as you would have others do unto you": therefore, be it

Resolved, That the United States Senate honors and recognizes the Most Reverend Francis T. Hurley, Archbishop of Anchorage, for his achievements and his dedication and commitment to the people of Alaska and indeed the world.

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

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

The motion to lay on the table was agreed to.

AUTHORIZING THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTIONS DURING ADJOURNMENT OF THE SENATE

Mr. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive and refer any appropriations bills received from the House during the adjournment period.

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

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 449) to authorize testimony of a former Senate employee and representation by the Senate Legal Counsel in the case of *United States* v. *Burnley, et al.*

The PRESIDING OFFICER. Is there further debate on the motion?

Without objection, the motion is agreed to.

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

Mr. BYRD. Mr. President, the United States District Court for the Southern District of California has been hearing testimony on a motion to dismiss a criminal indictment that has been filed, charging a number of individuals with conspiring to import shellfish obtained in Mexican waters into the United States in violation of United States Customs regulations, among other related charges.

One of the defendants in the proceeding has served a subpoena for testimony on a former member of Senator WILSON's staff, Robert Hudson, who, while in that capacity, participated in meetings and conversations concerning the enforcement of Customs regulations with respect to individuals who fish out of San Diego Bay in Mexican waters. The defendant apparently believes that information about these communications is relevant to his claim of selective prosecution. The resolution that is being offered will authorize Mr. Hudson's testimony in this matter and will authorize the Senate Legal Counsel to represent him if any questions of Senate privilege arise.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 449) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 449

Whereas, in the case of *United States* v. *Burnley, et al.,* Case No. 88-0179, pending in the United States District Court for the Southern District of California, counsel for the defendant has served a subpoena for the testimony of Robert Hudson, a former employee of the Senate on the staff of Senator Pete Wilson;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Hudson is authorized to testify in the case of *United States* v. *Burnley, et al.,* except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is directed to represent Robert Hudson in the case of *United States* v. *Burnley, et. al.*

THE CALENDAR

Mr. BYRD. Mr. President, I need to inquire of my friend across the aisle, the acting Republican leader, Mr. COHEN, as to whether Calendar Order No. 766 has been cleared on his side of the aisle.

Mr. COHEN. Mr. President, it has been cleared by the minority.

Mr. BYRD. I thank the acting leader.

SUBMISSION OF ASBESTOS MANAGEMENT PLAN

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 766.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3893) to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State governors and to begin implementation of those plans.

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

Mr. BAUCUS. Mr. President, I am pleased that the Senate has taken up H.R. 3893, legislation deferring the deadline for the completion of inspection and management plans required by the Asbestos Hazard Emergency Response Act. The Senate Environment and Public Works Committee has completed action on companion legislation, S. 2024.

School districts are facing a critical time in regards to complying with the October 12, 1988, deadline under existing law to complete inspection and management plans or be in violation of the law. School districts are making good faith efforts to complete their inspection and maintenance plans but are experiencing difficulty due to the unavailability of trained personnel to complete this task. The longer Congress waits to enact legislation deferring the October 12, 1988, deadline, the greater the likelihood that local education associations will be forced to enter into contracts with inadequately trained and certified inspectors.

In order to insure that local education associations have adequate time to take advantage of the deferral process, the Senate should adopt the House legislation as a fair compromise representing the view of local parents, teachers, school administrators, unions, Governors, and EPA.

Asbestos in public schools poses a serious health threat to our Nation's children and to workers exposed to asbestos. The legislation being considered today will insure continued progress toward insuring that asbestos which is threatening health will be properly managed or removed. The legislation will assure that inspection and management plans are the best possible plans to address the problem by insuring that schools have sufficient time to complete those plans.

Building materials that contain asbestos have enjoyed wide use in the United States since the 1930's. Only recently as a nation, have we recognized the health threat posed by exposure to asbestos fibers in the air.

Asbestos fibers when inhaled penetrate deep into the lung leading to a debilitating lung disease known as asbestosis. Asbestos can also lead to cancer which can be both debilitating and fatal.

Government responded to the health hazard posed by asbestos by developing regulations and offering local officials guidance on how to reduce exposure to asbestos.

Regulations for asbestos have been implemented to protect schools, the workplace, and to direct the renovation and demolition of buildings that contain asbestos.

Beginning in 1982, Congress became increasingly concerned that school children were being unnecessarily exposed to friable asbestos. All schools were required to inspect their buildings for friable materials and to then notify the public of their findings.

Two years later Congress enacted the Asbestos School Hazard Abatement Act which authorized $600 million in grants and loans to schools over a 6-year period for abatement of hazardous conditions involving asbestos.

By 1986, it became apparent that the health threat posed by asbestos necessitated stronger action. The threats posed to health were not being adequately addressed under existing programs.

The Asbestos Hazard Emergency Response Act was enacted to fill this void. All asbestos inspection and abatement contractors were to be certified. Utilizing certified contractors or employees each local education association in the country was required to inspect every school building by October 12, 1988, for the presence of asbestos, a management plan was then requested to be implemented beginning July 9, 1989.

While giving considerable latitude to local managers, this act charted a course for action.

That course of action, namely protecting this Nation's schoolchildren, is as valid today as it was when the law was enacted.

Getting inspectors and managers of asbestos certified and inspecting school buildings was recognized by Congress as the key to seeing this program work. As we approach the October deadline considerable progress is being made as contractors are certified but regional inadequacies have started to become apparent. Many local education associations find themselves confronting the possibility of either developing an inspection and management plan without utilizing certified personnel or being in non-compliance with the law. This problem is particularly acute in rural areas of the country such as Montana.

It is a problem that with a continued strong commitment to take action and time for additional individuals to become certified will correct itself. At the same time local education associations who have ignored the law will not be able to escape complying with the law since under the proposal before us, they will not be able to defer action on their inspection and maintenance plan.

While schools making good faith efforts to comply with the law may defer action on the completion of an inspection and maintenance plan, action will not be delayed on implementation of management plans. It is the intention of this legislation to continue the requirement in existing law that implementation of inspection and management plans begin July 9, 1989.

Briefly, the legislation would allow a local education association to have a deferral from October 12, 1988, until May 9, 1988, to complete its inspection and maintenance plan, if in the case of a public school, a public meeting has been held and a request has been made to the Governor explaining why a deferral is necessary. Any request for a deferral must assure that the public has been provided with either (1) a solicitation for a contract with an accredited asbestos contractor; (2) a letter attesting to enrollment in an EPA accredited training program; or (3) documentation showing that suspected asbestos containing material are awaiting laboratory analysis.

This information would need to be submitted to a Governor by October 12, 1988. The October 12 submittal date utilizes existing deadlines, it will allow the maximum amount of time for a local education association to determine whether or not a deferral is needed. Once a Governor receives a request for a deferral, he would have 30 days to acknowledge that all the information required to qualify for a deferral has been submitted. Acknowledgement will signify that a deferral has been granted. In the case of an LEA whose deferral submittal is deficient, a Governor is required to appraise a school of the basis for the deficiency. An LEA will then have 15 days to correct the deficiency.

An important component of a request for a deferral is assurance that inspection and management plans will be completed by May 9, 1989. In order to insure that plans are developed, a deferral request must insure that a contract will be entered into by December 22, 1988.

The deferral from the October 12 inspection and management plan is meant to provide adequate time to complete the plan. All inspection and management plans are to be submitted to the respective Governor by May 9, 1989. While allowing plans to be submitted up to this date, it is not the intention of the legislation that deferred plans be held until the last moment. Rather, as contractors become available, school personnel are certified and plans are completed, they should be submitted to the Governor for his review.

The legislation does not change the existing deadline in the law for the implementation of management plans. All LEAs must begin to implement their plan on July 9, 1989. A number of AHERA provisions are effective notwithstanding the existence of a management plan. I ask unanimous consent that a brief summation of these provisions be printed in the RECORD.

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

AHERA PROVISIONS WHICH ARE EFFECTIVE, NOTWITHSTANDING THE EXISTENCE OF A MANAGEMENT PLAN

A. Damaged Friable Surfacing ACM, Damaged Friable Miscellaneous ACM, and Damaged or Significantly Damaged Thermal System Insulation (Sec. 763.90[b]-[d])

As soon as an assessment determines that any of these conditions exist, the LEA must initiate steps to take action, notwithstanding the fact that a management plan has neither been drafted nor approved (sec. 763.90). Moreover, the response action must be both designed and conducted by a person accredited, and TEM must be undertaken if the area exceeds 3,000 square feet.

B. *Friable Surfacing ACM, Thermal Insulation ACM, or Friable Miscellaneous ACM That Has the Potential for Damage (Sec. 763.90[e])*

As soon as an assessment determines that any of these conditions exist, the LEA must at least implement an operations and maintenance program.

C. *Friable Surfacing ACM, Thermal System Insulation ACM, or Friable Miscellaneous ACM That Has Potential for Significant Damage (Sec. 763.90[f])*

As soon as an assessment determines that any of these conditions exist, the LEA must implement an operations and maintenance program; institute preventive measures appropriate to eliminate the reasonable likelihood that the ACM will become significantly damaged, deteriorated, or delaminated; immediately isolate the area and restrict access if necessary to avoid an imminent and substantial endangerment to human health or the environment.

D. *Operations and Maintenance (Sec. 763.91)*

After December 14, 1987, LEAs were/are required to follow operations and maintenance (O&M) requirements listed in section 763.91 whenever any friable ACBM is present or assumed to be present in a building (sec. 763.91). In general, the sec. 763.91 requirements mandate procedures for cleaning; large-scale operation and maintenance activities; small-scale, short duration maintenance activities; and minor or major fiber release episodes.

The O&M management plan requirements mandated by sec. 763.93 are predicated on and identical to the requirements of sec. 763.91. Moreover, EPA regulations do not require that an accredited person develop the O&M plan either under sec. 763.91, or for the purpose of the final management plan (sec. 763.93).

E. *Cleaning (Sec. 763.91[a])*

All areas of a school building where friable ACBM, damaged or significantly damaged thermal system insulation ACM, or friable suspected ACBM assumed to be ACM are present, must be cleaned after the initial inspection and prior to the initiation of any response action (other than O&M activities or repair), unless, within the previous six months the building has been cleaned using methods equivalent to those described in this subsection.

F. *Recordkeeping Requirements Effective (763.94)*

Recordkeeping requirements extend to specific activities undertaken by the LEA and must be maintained as part of the LEA management plan, even if the activities were undertaken prior to management plan development. *Example:* The regulations require that:

"For each preventive measure and response action taken for friable and nonfriable ACBM and friable and nonfriable suspected ACBM assumed to be ACM, the LEA shall provide:

A detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action, start and completion dates of the work, names and addresses of all contractors involved, and if applicable, their state of accreditation, and accreditation numbers, and if ACBM is removed, the name and location of storage or disposal site of the ACM (sec. 763.94[b][1])."

Moreover, the regulations at once assume that certain activities may be undertaken by an LEA prior to development of a management plan, and that the recordkeeping requirements extend to the following activities notwithstanding the existence of a management plan:

"For each time that operations and maintenance activities under sec. 763.91(d) are performed, the LEA shall record the name of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM (sec. 763.94[f]).

For each time that major asbestos activity under sec. 763.91(e) is performed, the LEA shall provide the name and signature, state of accreditation, and if applicable, the accreditation number of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM (sec. 763.94[g]).

For each fiber release episode under sec. 763.91(f), the LEA shall provide the date and location of the episode, the method of repair, preventive measures or response action taken, the name of each person performing the work, and if ACBM is removed, the name and location of storage or disposal site of the ACM (see 763.94(h)."

G. *All Response Actions Must Be Designed and Conducted By Persons Accredited to Design and Conduct Response Actions (Sec. 763.90)*

AHERA enactment made it unlawful for a person, other than one who has obtained EPA accreditation, to design conduct response actions, other than operations and maintenance.

Mr. BAUCUS. The Governor shall have 90 days to review a plan submitted by May 9, 1989, which is the same as existing law. If the plan is deficient, an LEA is provided 30 days to submit a revised plan. The Governor is authorized to provide up to 30 additional days for an LEA to correct a deficient plan.

The proposed legislation represents a fair balance between assuring that a local education association has sufficient time to develop the best asbestos management plan possible while at the same time maintaining a tight schedule to insure the protection of this Nation's children the users of these schools.

Mr. BURDICK. Mr. President, I rise in support of H.R. 3893 to extend the deadline for completing asbestos inspections and submitting management plans for the Nation's schools.

I particularly want to commend the chairman of the Subcommittee on Hazardous Wastes and Toxic Substances, Senator BAUCUS, for his efforts to develop compromise legislation that meets the concerns of school administrators, school employees, and parent organizations.

It became apparent soon after the regulations were issued under the Asbestos Hazard and Emergency Response Act last October, that the October 12, 1988 deadline for completion of asbestos management plans would be unattainable for many of the Nation's school districts. I have heard from schools in nearly every State on this subject.

The deadline extension we are considering is very reasonable. It lets no one off the hook in terms of complying with the July 9, 1989 date contained in law for initiating implementation of the management plan. It merely assures schools that they will not be assessed penalties because they have been unable to complete asbestos inspections by October 12. Further, this is not a blanket extension. Schools will have to apply to the Governor of their State for a deferral. If a school cannot demonstrate the need for a deferral under outlined criteria, the Governor may refuse the deferral.

The Committee on Environment and Public Works voted to report S. 2024 last Thursday. The House then approved its bill, H.R. 3893 on Monday. The two bills are very nearly identical. Because of the need to act quickly, we have chosen to proceed with consideration of the House passed measure so that we may send a bill to the President by the end of this week without the delay of a conference and additional floor action. By completing action this week, schools will have a clear procedure to follow between now and October 12 to assure that they will not be in violation of the deadline.

Mr. STAFFORD. Mr. President, I am pleased to support the bill now before the Senate, to modify certain deadlines in the Asbestos Hazard Emergency Response Act. I believe the approach taken by the Environment and Public Works Committee and the House of Representatives in producing this legislation is an instructive one.

Early this year school boards around the Nation began pressing Congress to change the deadlines for completing asbestos inspections and management plans. Several bills were introduced to give blanket deadline extensions, regardless of the need for delay in individual cases.

To their credit, key Members in both Houses resisted this pressure for a nationwide delay in protecting students and school workers from the serious threat of asbestos. When it became clear that the Congress would not be stampeded into granting a straight-out delay, parties on all sides of the issue—parents, workers, school boards, and administrators—hammered out a compromise that is the basis for the bill we are considering.

The bill assures continued progress in eliminating asbestos hazards in schools while recognizing that in certain areas of the country, qualified contractors may not be available to do the required work by October 12. No school district gets an automatic extension; parents, teachers, and school workers must be notified that an ex-

tension is being sought. And every school must begin to carry out an asbestos management plan on July 9, 1988, the existing deadline in AHERA.

Mr. President, asbestos is a health hazard. If properly managed, the threat can be virtually eliminated. Unfortunately, experience shows that the threat will not be addressed adequately without a Federal push. This bill responds to real resource limitations without relaxing the Federal pressure to address the hazard; it deserves our support.

Mr. LAUTENBERG. Mr. President, I rise today in support of this bill to establish a procedure for school districts to obtain deferrals of the October 12 deadline for submission of their asbestos management plans.

I have a longstanding concern about asbestos in schools. Asbestos is a health hazard when its fibers are released in the air. Children, teachers, other workers in school buildings must be protected from this hazard. Two years ago I helped write a law to put in place a tough asbestos management program for schools. This law, known as AHERA, the Asbestos Hazard Emergency Response Act, sets October 12, 1988 as the deadline for schools to submit to their Governors their plans for the management of all asbestos in their schools. The schools have until July 9, 1989 to begin implementing their plans.

Some schools have told us that they are having difficulty locating and contracting with certified inspectors to help them prepare management plans. The Subcommittees on Superfund and Environmental Oversight and on Hazardous Wastes and Toxic Substances conducted a hearing on this issue earlier this year. We heard testimony that this shortage of properly trained personnel puts schools into an workable situation. Through no fault of their own they may be exposed to fines and penalties because they will miss an important deadline.

Working with representatives of schools, teachers, employees, and parents, the Environment Committee has found a workable solution to this problem. I do not want to delay the start of this program. The health and safety of all concerned is too important. But it is also important to recognize the real obstacles to compliance with the deadline for submission of the plans. The bill we are considering today does not change the benchmark dates in the law. It does allow schools to have extra time to submit plans, without changing the crucial implementation date.

Nothing in this deferral bill stops the forward motion of the AHERA Program. Schools must submit to their Governors either a management plan or a request for a deferral by October 12. The deferral request must include specific evidence, spelled out in the bill, of a good faith effort to meet the deadline and plans for completing inspections and plans. For those who submit appropriate requests, the new deadline for management plans will be May 9, 1989.

The goal is clear: schools must adhere to the AHERA requirements and assure safe school environments. This bill provides a framework for achieving the goal. I urge passage of the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3893) was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—S. 2024

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 769 be indefinitely postponed.

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

ADJOURNMENT OR RECESS OF THE CONGRESS

Mr. BYRD. Madam President, I send to the desk Senate Concurrent Resolution 130 and ask for its immediate consideration, it being the adjournment resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Providing for a conditional adjournment of the House from June 29, 1988 until July 6, 1988.

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

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 130) was agreed to as follows:

S. CON. RES. 130

Resolved by the Senate (the House of Representatives concurring), That when the House adjourns at the close of business on Thursday, June 30, 1988, pursuant to a motion made by the Majority Leader of the House, or his designee, in accordance with this resolution, it stand adjourned until 12:00 o'clock meridian on Wednesday, July 6, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first, and when the Senate recesses or adjourns at the close of business on Wednesday, June 29, 1988, pursuant to a motion made by the Majority Leader of the Senate, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 o'clock meridian on Wednesday, July 6, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Speaker of the House, after consultation with the Minority Leader of the House, and the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for not to exceed 30 minutes and that Senators may speak therein for not to exceed 5 minutes each.

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

ROBERT BYRD: MAN OF MANY PARTS

Mr. MATSUNAGA. Mr. President, I rise to salute a colleague for whom I have great affection and profound regard, our majority leader—ROBERT C. BYRD, who is relinquishing his leadership post at the conclusion of this Congress.

Our friendship goes back to my years in the other Chamber. Shortly after I had announced my candidacy for the Senate in 1976, he called on me and told me then of his intention to run for the Senate Democratic leadership post in the 95th Congress and asked for my support. I expressed my surprise that he should pay me such a premature call as I had not even been nominated, let alone elected to the Senate. He assured me that he had every confidence in my election and spoke as if it was a foregone conclusion. In questioning him on his positions in regard to the leadership role he was seeking, I soon learned that we were not only quite compatible in our political outlook but we both shared a keen interest in the history and parliamentary mechanics of both Houses of Congress. I also learned we had a lot in common. Both of us came from blue collar, rural backgrounds, struggled for an education, were attorneys and entered politics as members of our State legislatures before coming to Washington, initially as Members of the House. I gave him my commitment of support during that 1976 visit and have supported him ever since, and never have I had cause to regret it.

Mr. President, all of us on both sides of the aisle are aware of the distinguished majority leader's great civility and spirit of comity toward his colleagues, even under conditions of acute stress, and indeed he is gracious toward all with whom he comes in contact. On those rare occasions when an action of his might have placed a strain on that spirit, it was brought about by this over-riding focus on accomplishing the people's work of this body. He has brought to his position the skills of "a man of many parts," crafting legislation with the parliamentary precision characteristic of a welder—a trade he once practiced—and the sense of timing of an accomplished fiddler, which he still is. Moreover, he has displayed on this floor the erudition of a scholar in the history of this institution, which he is, and the breadth of vision of a major, national statesman, as he has grown to be.

His energy over the years has been indefatigable. There are not too many among us who are aware of the fact that ROBERT C. BYRD earned his juris doctorate law degree, cum laude, from American University by attending evening classes while serving full time as a Congressman. Surely this is a most impressive feat since it was accomplished without stinting on his service to his constituents. Indeed, the people of his State are so grateful for his efforts on their behalf that they have voted him into more elective offices than any other individual in the history of West Virginia. Furthermore, he has received the highest percentage of votes ever received by a candidate in a West Virginia statewide, contested general election. He also is the only individual in the history of West Virginia, since the enactment of the 17th amendment provided for popular election to the Senate, to run unopposed for reelection to the Senate in a statewide general election.

Steeped in Senate lore and rules, ROBERT C. BYRD nevertheless has led this Chamber into the video age so that the people of this country can view our Senate floor deliberations from their living rooms and do so in full. Learned in the past, he has constantly looked to the future and to the Senate's role therein. As majority leader he has served well his colleagues of both parties and he serves his constituents with great ability, but most of all, Mr. President, he serves this Nation with rare distinction and dedication. I am sure he will continue to do so—if less visibly—in Congresses to come. But, Mr. President, this transition in his Senate career should not go unnoticed, nor unappreciated by us all.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I commend my colleague from Hawaii for his remarks. I concur in them. I am pleased that my colleague from Hawaii is on the floor right now because my next remarks really have grown out of a bill that Senator MATSUNAGA introduced and that passed this body not too long ago. I am pleased to say it has been signed into law by the President.

Mr. President, I ask unanimous consent at the end of my remarks to insert this in the RECORD.

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

(See exhibit No. 1.)

Mr. SIMON. I have a radio discourse, a call-in program that my colleague, Senator ALAN DIXON was on, in which one of the callers asked about the bill that Senator MATSUNAGA introduced or was the chief cosponsor of, and which I was honored to be a cosponsor of. In that the caller was critical of this bill.

I might add from time to time any of us will differ on one issue or another. And my colleague, Senator DIXON, and I occasionally will vote differently on an issue but we have known each other for many years. We served together in the State legislature. We were seatmates. I have learned that his instincts on these basic things are sound. But in response to the critical caller our colleague, Senator DIXON said:

"It was an outrageous stain on the American conscience and I think we had to do something about it. We've done that and now it's a matter for the president to decide what he wants to do, but I think the one great dignity of this nation is that we treat people the same in this country whether you're Christian or Jewish, white or black, German, Japanese or Italian or whatever you might be. In this country you're supposed to get an even break and those folks didn't get one."

The caller then says:

"But those folks, they had their free food, free shelter . . ."

Our colleague, Senator DIXON says:

"That's like a darn fool calling in here and saying because you got fed in jail you were treated right. Now that's an outrage!"

The caller says:

"Ya, but . . ."

Our colleague, Senator DIXON says:

"I don't agree with that at all. You know, for a person to say that they got fed while they were held in jail: those people lost their businesses, they lost their families, they lost their human dignity, they were held in jail, but you're satisfied because we fed them. I disagree."

EXHIBIT NO. 1

PENNY FOR YOUR THOUGHTS: JUNE 3, 1988, JIM TURPIN'S GUEST: SENATOR ALAN J. DIXON

JIM TURPIN. "From now until about 10:45 this morning it is our pleasure to have Senator ALAN DIXON in the studio with us. If you have any questions of the Senator, please feel free to give us a call. I have a number of things I want to talk to him about, as well, but as always you are invited to call in and join in the conversation."

QUESTION ON JAPANESE INTERNMENT DURING WORLD WAR II

CALLER. "Yes, Jim, I want to talk to Senator DIXON."

TURPIN. "He's right here, go ahead."

CALLER. "Senator DIXON?"

AJD. "Yes."

CALLER. "I was wondering what you thought about this $20,000 for the Japanese?"

AJD. "Well, I think the gentleman is talking about the reparations bill that was passed concerning the unlawful internment of Japanese during World War II. I think it was an appropriate response to one of the outrageous acts of misconduct in the history of America. My mother was a Tebbenhoff and her mother before her was a Washausen and I'm pure German on my maternal side. In my home town of Belleville, IL, they taught German in the schools up until a few decades ago, but they did not put Germans like my parents in jail during World War II, and they should not have put Japanese in jail. It was an outrageous stain on the American conscience and I think we had to do something about it. We've done that and now it's a matter for the president to decide what he wants to do, but I think the one great dignity of this nation is that we treat people the same in this country whether you're Christian or Jewish, white or black, German, Japanese or Italian or whatever you might be. In this country you're supposed to get an even break and those folks didn't get one."

CALLER. "But those folks, they had their free food, free shelter . . ."

AJD. "Oh, that's the most outrageous thing I've ever had anyone say to me. That's like a darn fool calling in here and saying because you got fed in jail you were treated right. Now that's an outrage!"

CALLER. "Ya, but . . ."

ADJ. I don't agree with that at all. You know, for a person to say that they got fed while they were held in jail: those people lost their businesses, they lost their families, they lost their human dignity, they were held in jail, but you're satisfied because we fed them. I disagree."

CALLER. "No, I'm not saying that."

ADJ. "Well I'm saying I disagree."

TURPIN. "I think we've covered that one. Well put, Senator."

Mr. SIMON. Well, I just want the Senator to know I am proud of my colleague, Senator DIXON, and proud that this Senate did what it did in passing Senator MATSUNAGA's bill, just to make clear to everyone that when a mistake is made, we as a people can rectify that mistake.

Mr. MATSUNAGA. Will the Senator yield?

Mr. SIMON. I am pleased to yield to my distinguished colleague from Hawaii.

Mr. MATSUNAGA. I wish to thank the Senator from Illinois for inserting the comments of his colleague in the RECORD. He sent me a copy of the tape, and I was truly delighted at how he had responded to criticism of his constituent.

I must say, both Senators from Illinois are strong supporters of the bill which I introduced to compensate the

Japanese-Americans who were interned in American concentration camps during World War II and practically every newspaper in the country has editorialized in favor of the action taken by the Senate. In this bicentennial year of our Constitution, it is time that we remove that ugly blot upon this great country, and which has been on it for 45 years.

I once again want to thank the Senator from Illinois for bringing this matter to the attention of this body.

Mr. SIMON. I thank my colleague.

I not only want to remove that blot, but also, I want to see that we never repeat it against any people in our country.

THE EXECUTIVE CALENDAR

Mr. BYRD. Madam President, I ask the distinguished acting Republican leader, Mr. CHAFEE, if the nomination of Frederick K. Goodwin to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration has been cleared on that side of the aisle, notwithstanding the fact that it was only reported today from the Committee on Labor and Human Resources.

Mr. CHAFEE. Yes. I inform the distinguished majority leader that that has been cleared and is ready for the action. I thank the majority leader for bringing it up so swiftly.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Frederick K. Goodwin to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

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

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The legislative clerk read the nomination of Frederick K. Goodwin, of Maryland, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

The PRESIDING OFFICER. The question is on agreeing to the confirmation of the nomination.

The nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

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

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.

A FRIEND WHO WALKETH CLOSER THAN A BROTHER

Mr. BYRD. Mr. President, I heard with pleasure the remarks by the distinguished Senator from Hawaii, Mr. MATSUNAGA. He caught me unaware as I was about to leave the Chamber, but, inasmuch as I was the subject matter of his comments, I felt I should stay and listen. I am very grateful for his comments, and I am grateful for his friendship.

SPARK MATSUNAGA is a fine Senator, and he is a unique Senator. He is a dedicated, loyal, hard-working, tenacious, sincere, conscientious representative of his people. He is a good Senator for all the Nation.

He spoke of having given me a commitment several years ago to support me as the majority leader in the Senate. Once SPARK MATSUNAGA gives his word, there is no need to ask him again and again. I have found that his word is his bond.

There is a "friend that walketh closer than a brother," we are told in the scriptures. SPARK MATSUNAGA, as far as this Senator is concerned, is a friend that walketh closer than a brother.

There is a destiny that makes us brothers;
None goes his way alone:
All that we send into the lives of others
Comes back into our own.
I care not what his temples or his creeds,
One thing holds firm and fast—
That into his fateful heap of days and deeds
The soul of man is cast.

I am happy to call SPARK MATSUNAGA my colleague, my friend, and my brother.

FISHING VESSEL SAFETY

Mr. CHAFEE. Mr. President, the House of Representatives today approved a bill which will require the Nation's 33,000 commercial fishing vessels to carry basic life-saving equipment. I introduced similar legislation in the Senate more than 2 years ago, and I am delighted that Congress will have an opportunity this year to finally approve this long overdue measure.

As appalling as it may sound, over 90 percent of the Nation's commercial fishing fleet is virtually exempt from safety regulations. It seems impossible to believe that, but it is true. Every day, fishing vessels that are unstable and unseaworthy are going to sea. Some of these vessels have no life rafts, no survival suits, no emergency position-indicating devices, no bilge alarms, or power-driven bilge pumps. As incredible as it may sound, the captains who operate these boats and endanger their crews are not violating one single regulation.

It is no wonder that commercial fishing is the most dangerous occupation in the United States. According to U.S. Coast Guard figures, an average of 250 fishing boats sink each year. The death rate for commercial fishermen is seven times the national average for all industry groups and twice that of mining, the next most hazardous occupation.

In March 1987, I, along with Senators KERRY and ADAMS, reintroduced the Commercial Fishing Industry Vessel Safety and Compensation Act, S. 849. This bill will require the Secretary of Transportation to develop regulations for the installation, maintenance, and proper use of emergency position-indicating beacons, lifeboats, exposure suits, and signaling devices. These minimum safety requirements will undoubtedly save lives.

Mr. President, it is worth noting that the National Transportation Safety Board, in a report released last year, states unequivocally that the safety elements in S. 849 will reduce fishing vessel casualties and loss of life.

The Senate has held two hearings on this legislation, one under the able leadership of Senator KERRY in the national ocean policy study of the Commerce Committee, and one which I chaired in Rhode Island. At both hearings we heard riveting testimony from families whose loved ones were lost in preventable fishing accidents at sea. These families have become convinced that the lost fishermen were not so much victims of the sea, as victims of negligence. The average fishing vessel today is, plain and simple, an unsafe workplace—a workplace accepted by a government which demands adherence to safety regulations in every other industry, but not in commercial fishing, the most dangerous industry.

The legislation being sent to us from the House, if acted on, will change this. It contains minimal improvements in safety which will save so many lives at so little cost. It will mandate commonsense survival equipment which will give the crew of a sinking vessel at least a chance to live.

I would like to make special mention of Mrs. Peggy Barry, who lost her son in a tragic and preventable fishing accident. Mrs. Barry and her husband, Ambassador Barry, deserve a great deal of credit for keeping the fishing vessel safety issue high on Congress agenda.

Finally Mr. President, let me point out that when this bill was first introduced it contained a title dealing with insurance and compensation issues. This section would have created a workman's compensation type of system for fishing vessel crewmen,

which would have replaced the current inefficient, inequitable system of litigation we have today in the fishing industry. However, due to a successful lobbying effort by the Trial Lawyers Association, who managed to defeat this bill on the floor of the House last year, and the inability of the lawyers and the fishermen to agree on an acceptable scheme, this section has been removed, regrettably.

I hope that my colleagues in the Senate will follow the lead of the House of Representatives, and act quickly to give final approval to this legislation. We must not allow more lives to be needlessly lost at sea.

GLOBAL CLIMATE CHANGE AND THE NEED FOR ACTION

Mr. CHAFEE. Mr. President, I would call to the attention of this body, yesterday's New York Times and Boston Globe which carried two stories that should be read by everyone. The Globe headline, on page 1, read: "Would Leaders Call for Drastic Action to Slow Earth's Warming." The Times lead said "Norway and Canada Call for Pact to Protect Atmosphere."

To help those who did not see them, I ask unanimous consent that copies of these articles be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. CHAFEE. Speaking in Toronto at the first World Conference on Changing Atmosphere, Prime Minister Brundlandt, of Norway, called for a treaty to stabilize the Earth's atmosphere and prevent further degradation. She accurately noted that "[t]he impact of climate change may be greater and more drastic than any challenges mankind has faced with the exception of nuclear war." She went on to say that "[f]or our common future, drastic action has to be taken." Prime Minister Mulroney, of Canada, delivered a similar speech.

Mr. President, I would like to say this. There are many of us who have preached this theme year after year. I am just so glad that now it is getting more attention throughout the world.

On March 31, 41 Members of this body joined me in a letter to President Reagan. I ask unanimous consent that the letter and the administration's response be printed in the Record following the two press articles.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 2.)

Mr. CHAFEE. Our letter delivered the same message as Prime Minister Brundtland and urged the President to call for an international treaty on global climate change. Although I would have preferred to see our country take the lead on this matter, I am pleased to see that at least two of the world's leaders agree with our proposal and are willing to speak out.

What prompted this? It is the realization that human activity is altering our atmosphere and destroying the delicate balance that controls the Earth's climate. We are polluting our air with industrial and agricultural gases. We are releasing record amounts of carbon dioxide by destroying tropical forests and burning more and more coal and oil. The result is a phenomenon known as the greenhouse effect. The Sun's heat comes in, but is unable to escape from the atmosphere. It is trapped.

These gases trap the Sun's heat like the glass in a greenhouse and cause temperatures to rise.

For too long, people have been discounting the importance of this issue by saying "the greenhouse effect is just a theory, there is too much we do not know, it would be premature to put controls in place." Finally, that is starting to change. It must change. We cannot afford to sit by and wait for the problem to solve itself.

Scientists predict that the greenhouse effect will increase average global temperatures by 3 to 9 degrees Farenheit in 40 to 60 years. This is the average. At the higher latitudes the increase will be even greater, reaching as much as 20 degrees.

To put this in perspective, keep in mind that the global temperature has not risen by 3 degrees for more than 10,000 years. Now we are talking about much larger changes in less than 60 years.

The disruption and the devastation that will be caused by such a drastic, rapid change is mind boggling.

Last week, Dr. Jim Hansen, one of the world's foremost authorities on climate told us that four of the hottest years on record occurred in the 1980's and that, based on the first 5 months of 1988, this year will be the warmest yet. The odds of this being the result of natural variation is, according to Dr. Hansen, 1 in 100. He is 99 percent certain that the rising temperature trend is a result of the greenhouse effect. We are no longer just talking about a theory. The greenhouse effect is here and global warming has begun.

What happens with the heat? Well, the Antarctic ice melts, in the Antarctic and Arctic regions. Glaciers melt. the heat and the drought that many parts of our country and the world are experiencing may be harbingers of things to come. Rising sea levels caused by thermal expansion of the oceans and melting ice are another greenhouse-related problem.

To those who say it is premature to consider a global treaty that is aimed at reducing greenhouse gases and protecting the Earth's climate, I would point out that we will never get there if we do not get started. The international process moves slowly enough as it is. We cannot afford to delay any longer. The time for action is now.

I do hope that, in the balance of days, waning days of this administration, that those in authority will recognize this more and more as we proceed. This is a tremendous threat to our globe and who is going to do something about it? Well, the United States has to take the lead. We have to take the lead because, first of all, we are causing more of the heat rise than anybody, any other nation, with the consumption and burning of gasoline, oil, and coal.

Second, we have been traditionally leaders in environmental affairs. I hope we will keep that reputation.

I thank the Chair.

EXHIBIT 1

[From the Boston Globe, June 28, 1988]

WORLD LEADERS CALL FOR DRASTIC ACTION TO SLOW EARTH'S WARMING

(By Dianne Dumanoski)

TORONTO.—As a severe North American drought dramatized the dangers of rising world temperatures and resulting climate change, world leaders and scientists at an international conference here called yesterday for immediate and drastic action to slow the pace of global warming.

"The impact of climate change may be greater and more drastic than any challenges mankind has faced with the exception of nuclear war," Prime Minister Gro Harlem Brundtland of Norway told an audience representing 48 nations. "For our common future, drastic action has to be taken."

Brundtland proposed several immediate measures, including international talks on reducing energy use by the end of the century, an international research and information program on renewable energy and a technology transfer program to help developing countries become more energy efficient and less reliant on polluting fossil fuels.

Prime Minister Brian Mulroney of Canada called for agreement on an international "law of the air" by 1992 to respond to the "global threat to the Earth's atmosphere." He noted the projected global temperature change of about 9 degrees Fahrenheit over the next 60 years "is unprecedented in human history."

The Earth's temperature is expected to rise dramatically over the next half century because human activity is rapidly altering the atmosphere. Increases in carbon dioxide from fossil fuel burning, as well as other gases released by industrial and agricultural activity, are trapping the sun's heat like the glass in a greenhouse and causing temperatures to climb.

Scientists believe even a 1-degree rise in global temperature can cause significant changes in climate and alter rainfall patterns.

While high-ranking ministers and officials were on hand from Canada, Norway, Indonesia and a number of other countries, the absence of their counterparts from the United States was noted by several diplomats and other observers, who described the meeting as an effort to begin an international policy discussion on ways to slow global warming.

Lee Thomas, the US Environmental Protection Agency administrator, was invited

and his name appeared on an early conference agenda, but EPA spokesman John Kaspar said yesterday Thomas would not attend. Kaspar called the conference a "technical meeting" and said staff-level attendance seemed "most appropriate" at this point.

United Nations and Canadian officials and US environmentalists, however, attributed the US absence to disagreements within the Reagan administration on the issue and a resulting unwillingness to attend a meeting that may call for an international treaty to reduce the pollution responsible for the so-called "greenhouse effect." Canadians also suggested the United States was afraid of being assailed for its inaction on limiting pollutants that cause acid rain.

Because US leadership was a major factor last fall in concluding an international treaty to protect the ozone layer that shields the Earth from damaging ultraviolet radiation, most observers believe US support is critical. Robert W. Slater of Environment Canada, the country's federal environmental agency, said in an interview, "The US is very important. Nothing will happen without the US."

Scientists such as Michael McElroy of Harvard University and Irving Mintzer of the World Resources Institute stressed the importance of trying to slow the skyrocketing temperatures. A slower rise, they said, would give nations a chance to adapt to the disruptions climate change will cause for water supplies, agriculture and human settlement patterns.

Among other effects of global warming, speakers at the conference said, are that sea levels will rise and flood major areas of countries such as Bangladesh. Stephen Lewis, Canada's ambassador to the United Nations, said the current drought in the United States and Canadian grainbelt added a sense of urgency to the discussion. The moment, he said, is "poignantly auspicious."

Mohammed Sahnoun, Algeria's ambassador to the United States, echoed this sentiment, saying he is convinced the greenhouse effect is contributing to the severity of the drought now gripping northern Africa.

Computer models of the effect of global warming on climates predict rainfall will diminish in the Midwest and southeastern parts of the United States as temperatures rise. Though scientists cannot definitively attribute the current drought to the greenhouse effect, many find it worrisome the pattern of reduced rainfall is occurring precisely where some mathematical models had predicted.

The gathering, titled the World Conference on Changing Atmosphere, was convened by the government of Canada with co-sponsorship from the UN Environment Program and the World Meteorological Organization.

McElroy charged in a speech that both the major party candidates for president, Vice President George Bush and Gov. Michael S. Dukakis of Massachusetts, have failed to show leadership on the issue.

Bush, he added later in an interview, has yet to say anything on the subject, while Dukakis, at a Texas debate, proposed increased use of coal, natural gas and gasohol made from Midwest grain. The coal and natural gas will contribute to global warming, McElroy said, and frequent droughts in the Midwest linked to global warming may make it impossible to grow the crops to produce gasohol.

"Here is a national candidate who has yet to formulate a sensible policy on the environment and energy," said McElroy, adding the candidates "fail to recognize the seriousness of the issue."

[From the New York Times, June 28, 1988]

NORWAY AND CANADA CALL FOR PACT TO PROTECT ATMOSPHERE

(By Philip Shabecoff)

TORONTO, June 27.—The Prime Ministers of Canada and Norway called today for a binding international agreement to protect the atmosphere from pollution.

Speaking at a conference on the changing atmosphere, Prime Minister Brian Mulroney of Canada proposed a global "law of the air," and Prime Minister Gro Harlem Brundtland of Norway called for a treaty to stabilize the earth's atmosphere and prevent further degradation.

The two leaders said that the international community must now act to address a range of assaults on the atmosphere, including the global warming projected to result from the greenhouse effect, damage to the protective ozone layer and the acidification of rain and snow.

Government officials, scientists and environmentalists here said that this was the first time heads of state had proposed an international agreement to protect the atmosphere from a broad range of problems caused by the burning of fossil fuels, industrial pollution and other human activities.

Last year more than 40 nations agreed to act to protect the ozone layer by limiting use of chlorofluorocarbons, a group of industrial chemicals. But as Mr. Mulroney and Mrs. Brundtland made clear, a treaty to protect the atmosphere would require much more sweeping adjustments, including reducing dependence on oil and coal.

The conference, "The Changing Atmosphere: Implications for Global Security," was called by the Government of Canada. While there are representatives here from 48 countries, this meeting was not planned as a formal negotiating session and no international agreements will be reached here. Nevertheless, representatives of the Reagan Administration at the conference said it was much too soon to begin considering an international agreement on protecting the atmosphere. They note that the issues and problems involved are far more complex than those in the effort to protect the ozone layer. Generally, however, government and private participants here expressed a sense of urgency about coming to grips with human-induced climate change. New evidence that a global warming, and resulting changes in weather patterns, may already have begun has garnered special attention.

Dr. James W. Hansen, a climate expert for the National Aeronautics and Space Administration, told a Senate committee last week that the global temperature in the first five months of this year was the warmest on record and that the rising temperature trend is almost certainly a result of the greenhouse effect. The effect results from the buildup of carbon dioxide and other gases in the atmosphere that trap solar radiation within the atmosphere, raising the earth's temperature.

Mathematical models predict that as a result of the greenhouse effect, average global temperatures will rise by three to nine degrees Fahrenheit by the period from 2030 to 2050. A rise of this order would cause disruptive shifts in rainfall patterns and, by melting ice and warming the oceans, cause sea levels to rise by a foot or more. The global temperature has not risen by three degrees for more than 10,000 years, and it has been hundreds of thousands of years since there has been a nine-degree change.

"The impact of world climate change may be greater than any challenge mankind has faced, with the exception of preventing nuclear war," said Prime Minister Brundtland, who is chairwoman of the United Nations' World Commission on Environment and Development.

As the first part of her action plan, Mrs. Brundtland called for an international discussion of ways to reduce energy consumption before the end of this century as a means to reducing carbon dioxide pollution. She said Norway is planning on stabilizing energy use by the year 2000.

Burning of fossil fuels accounts for most of the carbon dioxide humans are adding to the atmosphere, and also accounts for much of the pollution that leads to acid rain.

The Norwegian leader proposed an international research program on renewable energy sources, the transfer of benign energy technology to developing countries and accelerated scientific research into climate problems. She also proposed a "global convention on the protection of the climate," to coordinate research, information exchange and "concrete measures to reduce emissions of harmful substances."

Mr. Mulroney was not as specific in outlining his plan for an international law of the air but Canadian officials here said reduction of fossil fuel use would be among the elements.

William A. Nitze, Deputy Assistant Secretary of State for Environment, Health and Natural Resources, said it would be "premature at the current moment to contemplate an international agreement that set targets for greenhouse gases."

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, March 31, 1988.

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

DEAR MR. PRESIDENT: We are writing to urge that you continue and expand recent initiatives on the international environmental problem of the greenhouse effect and global climate change, such as those announced at the conclusion of the December 1987 summit meeting with Soviet General Secretary Gorbachev. Specifically, we urge that, at the next summit meeting with the General Secretary in Moscow and at the upcoming economic summit meeting this June in Toronto, you call upon all nations of the world to begin the negotiation of a convention to protect our global climate. Such a convention could be modeled after the historic Vienna Convention to Protect the Ozone Layer.

You are to be congratulated for including the problem of global climate change as part of the agenda at the December 1987 summit meeting with General Secretary Gorbachev. It is encouraging to observe the growing commitment that our two nations are making to deal with the environmental threat of global warning. Of particular note was the Joint Summit Communique which stated that the "two sides will continue to promote broad international and bilateral cooperation in the increasingly important area of global climate and environmental change."

Scientists have warned us that increasing concentrations of certain pollutants in the

atmosphere will increase the earth's temperature over the coming years to a level which has not existed for tens of millions of years. There is some urgency to this matter since scientists predict that, as a result of past pollution, we are already committed to a significant global warming. These greenhouse gases will lead to substantial changes in the climate of our planet with potentially catastrophic environmental and socio-economic consequences.

The predicted global warming and climate changes are expected to occur at a rate and in a fashion that will preclude natural evolutionary responses. The likely effects of the greenhouse effect include rising sea levels, changes in the location of deserts, extremely high temperatures in cities during the summer months, increases in the number and severity of hurricanes, the death of large portions of forests, and the loss of adequate moisture in the mid-continent agricultural belt.

The challenge of reducing this threat to the planet's well being is considerable. One of the most significant greenhouse gases is carbon dioxide, a by-product of fossil fuels. The United States and the Soviet Union are the world's two largest contributors of carbon dioxide. Together, we account for almost one-half of the global total.

For these reasons, the United States and the Soviet Union must take positions of global leadership on this matter and call for a convention on global climate change. Such a convention could address our scientific understanding of the problem, the need for and limits of adaptation as a response to future climate change, as well as strategies to stabilize atmospheric concentrations of greenhouse gases at safe levels.

Negotiations to achieve a climate convention would have to take place on a multilateral basis. However, cooperation between the United States and the Soviet Union is an essential precondition of a successful international response to the greenhouse effect. The problems associated with global climate change provide an historic opportunity for our two countries to cooperate on a long term basis to insure the habitability of Earth. These facts were recognized and endorsed in the recently enacted Global Climate Protection Act (P.L. 100-204, sections 1101-1106).

For these reasons, we urge you and General Secretary Gorbachev to use the upcoming summit meeting scheduled to be held in Moscow as a forum to call for the negotiation of a convention on global climate change and to commit the United States and the Soviet Union to a leadership role in that process. At the same time we suggest that you expand and elevate the level of ongoing bilateral U.S.-U.S.S.R. activity which could enhance our understanding of the problem. We endorse the establishment of a high level working group to study potential responses to climate change, including greenhouse gas emissions reductions and adaptation to climate change. This expanded bilateral activity should be recognized and supported as an important priority within the United States' foreign and environmental policy agenda.

Similarly, we urge you to use the seven nation economic summit that is scheduled to be held during the month of June in Toronto as a forum to urge the negotiation of a global climate convention. At last year's economic summit, the leaders of the seven nations stated: "We underline our own responsibility to encourage efforts to tackle effectively environmental problems of worldwide impact such as . . . climate change. . . ." This year's economic summit is the appropriate opportunity to take the next step and call for a global climate convention.

Thank you for your attention and commitment to this important, international environmental issue. We look forward to working with you and assisting you in our mutual efforts to protect our fragile planet.

Sincerely,

Senators John F. Kerry, Dave Durenberger, Albert Gore, Pete Wilson, Terry Sanford, Max Baucus, George J. Mitchell, Dale Bumpers, Frank Murkowski, David Pryor, John H. Chafee, Robert T. Stafford, Carl Levin, Spark M. Matsunaga, Wyche Fowler, Jr., Tom Harkin, Timothy E. Wirth, Bob Graham, Dennis DeConcini, Steven D. Symms, Bob Packwood, Daniel J. Evans, Frank R. Lautenberg, Donald W. Riegle, Jr., Patrick J. Leahy, Bob Kasten, Jeff Bingaman, Thomas A. Daschle, Nancy Landon Kassebaum, Brock Adams, Alfonse M. D'Amato, Quentin N. Burdick, Arlen Specter, Edward M. Kennedy, Pete V. Domenici, Thad Cochran, William S. Cohen, Claiborne Pell, Richard G. Lugar, William V. Roth, Jr., Dan Quayle, John Heinz.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, May 16, 1988.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: Thank you for your March 31, 1988 letter to President Reagan, co-signed by forty-one of your colleagues, regarding international initiatives on global climate change. Despite considerable uncertainty regarding the extent of man's influence on the global atmosphere, the possibility of global climate change warrants high-level attention in the international arena. Accordingly, the United States is engaged in a wide range of cooperative research activities—both bilateral and multilateral—to improve our scientific understanding of this issue. The U.S.-Soviet Summit in May and the Toronto Economic Summit in June could provide good opportunities to discuss this issue.

At the December 1987 Summit in Washington, President Reagan and General Secretary Gorbachev agreed to develop cooperative atmospheric science programs between our two nations, including a detailed study on the climate of the future. The United States and the Soviet Union are now negotiating a range of proposed projects for the acquisition, coordination and exchange of space-based data related to global climate change.

Cooperative research with the Soviet Union to help establish the scientific base for documentation and assessment of global climate change has also been conducted for years under the U.S.-U.S.S.R. Agreement on Cooperation in the Field of Environmental Protection. A "protocol", which lays out joint activities in this area for 1988, includes over 30 possible projects, exchanges and experiments.

The United States is also engaged in bilateral programs with other nations with active research programs on this issue. Cooperation with the People's Republic of China, for example, will be carried out under the U.S.-PRC Science and Technology Agreement which covers exchanges on atmospheric science and environmental protection and the US-PRC Protocol for Scientific and Technical Cooperation which specifies five major areas of atmospheric research. Studies on the role of the ocean in climate change are conducted under the U.S.-PRC Bilateral Agreement on Cooperation in Marine and Fisheries Science and Technology. Both countries also support related training and educational exchange programs.

In addition to bilateral activity, the United States supports the establishment by the United Nations Environment Program (UNEP) and World Meteorological Organization (WMO) of an intergovernmental panel to develop methodology for and carry out internationally coordinated assessments of the scientific understanding, magnitude, timing and possible effects of climate change. The results of these assessments, along with other pertinent information, will provide a basis for considering a wide range of options to deal with the global climate issue, including the possibility of a climate convention. The United States will be an active participant in the work of the WMO/UNEP intergovernmental panel.

In addition to UNEP and WMO, over seventy nations including the United States and Soviet Union have endorsed the International Geosphere-Biosphere Program (IGBP). Established in 1986 by the International Council of Scientific Unions, this transdisciplinary research program is directed at improving our understanding of the interactive physical, chemical and biological processes that regulate the total Earth system.

In short, the United States is engaged in numerous cooperative research programs which will improve our scientific understanding of man's influence on the global atmosphere. The upcoming summits will provide us with excellent opportunities to discuss this international cooperation. Our interest in international cooperation serves to supplement our domestic research programs related to global climate change which show an increase in the President's budget request for 1989.

We appreciate your continued interest in global environmental issues and look forward to working with you in the future.

Sincerely,

LEE M. THOMAS.

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

Mr. MATSUNAGA. Will the Senator withhold that request?

Mr. CHAFEE. Yes, I will be glad to.

The PRESIDING OFFICER. The Senator from Hawaii.

(The remarks of Mr. Matsunaga pertaining to the introduction of legislation are printed later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 20 minutes under the same conditions as heretofore.

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

VISIT OF PRESIDENT EVREN OF TURKEY

Mr. BYRD. Mr. President, today I was pleased to host, along with the distinguished Republican leader, Mr. DOLE, a luncheon for the President of the Republic of Turkey, Kenan Evren. Recently I led a bipartisan delegation of Senators to Turkey, where we had the pleasure of meeting with President Evren and other senior officials. I am delighted that President Evren was able to visit Washington at this time, the first visit of a Turkish President to the United States in 21 years.

Turkey is a strong and loyal ally of the United States. She occupies a strategic frontier for NATO, bordering not only the Soviet Union but also Iran and Iraq—truly a turbulent part of the world. Turkey guards the Turkish Straits, an extremely vital waterway of great strategic significance. Turkey has the second largest military force within NATO, and is embarked on an important modernization program for her armed forces.

Because of the vital importance of Turkey to the NATO alliance and to the United States, it is important that we assist Turkey in her efforts to modernize her forces and to shoulder fully her portion of the collective security burden. We discussed these issues with President Evren today. The exchanges were valuable and useful.

I also congratulate President Evren, as did many of the other Senators present at our luncheon, for the initiative which has been undertaken by Turkey with regard to improved dialog with Greece. Continuing this dialog, which I hope will facilitate progress on the Cyprus issue and other outstanding questions concerning the security situation in the eastern Mediterranean, could create conditions which improve the overall political and security situation in the southern region of NATO.

Turkey has worked hard at developing her democracy. President Evren is to be commended for his leadership in helping to restore democracy after a period of military rule in Turkey. It is my hope that the strengthening and deepening of democracy in Turkey will continue as it has for the past 8 years.

President Evren shared some thoughtful remarks with us today at lunch. I ask unanimous consent that the full text of these prepared remarks be printed in the RECORD in order that they may be read by all Senators.

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

REMARKS OF KENAN EVREN, PRESIDENT OF THE TURKISH REPUBLIC, AT THE UNITED STATES CAPITOL

Mr. Leader and Distinguished Senators, I thank Senator Byrd and his colleagues for organizing this meeting and thus providing me an opportunity to address you. I am delighted to be here and have an exchange of views with you. I know the Congress has an effective role and an important contribution to make to the formulation of American foreign policy. That is why I believe that it is very useful for me to share my thoughts on Turkish-American relations with you.

Turkish-American relations gained momentum with Turkish membership in NATO. In its early years, our relationship was based on security cooperation, reflecting our mutual strategic interdependence. In fact, for a long time security cooperation remained the only dimension of our relationship. But in the recent years, the consolidation of Turkish democratic achievements and new significant economic strides are transforming our relationship into a multidimensional cooperation. We consider this a healthy development, bringing balance and stability to our relationship.

Let me first dwell on the strategic dimension.

Our cooperation in this field for the past 40 years has been constructive and beneficial. It has contributed in a significant way not only to the security of our countries, but also helped peace and stability in Europe and in the region where Turkey is situated.

Turkey's indispensable contribution to Western security is often mentioned at NATO forums. Located in the most sensitive region of the Alliance, Turkey shares the longest frontier with the Soviet Union, guards the strategic Turkish straits, and maintains the largest NATO army after the U.S. Almost the entire Turkish Armed Forces are allocated to NATO missions and deployed according to Alliance defense plans. The importance of Turkey's contribution to NATO defense and Western security is highlighted by her defense of one third of the NATO-Warsaw Pact dividing line and by her high defense spending which places her among the top four in NATO, despite being the lowest income member. These facts illustrate that Turkey shoulders burdens and responsibilities much beyond her fair share. It is evident that the acceleration of the modernizataion program of the Turkish Armed Forces would be a very cost-effective investment in terms of augmenting Western security and deterrence, especially at a time when the INF Agreement highlights the importance of conventional defense and deterrence in European NATO. Her NATO responsibilities place a great economic burden on Turkey. As a developing country, one of the basic requirements for her economic growth is to keep military expenditures at low levels. It is also evident that democratic stability in a developing country requires a healthy economy.

That is why Turkey receives security assistance from its allies. In principle, we believe that our military requirements should be met through national resources rather than security assistance, which, in fact means incurring high-interest-bearing debts. This is our objective. Moreover, when we reach that objective, alien problems injected into our relations through the appropriation process of security assistance will be eliminated and Turkish-American relations will become healthier and more stable. We sincerely seek the creation of conditions in which Turkish-American relations will be viewed only on their own merits.

Though we have not reached that point yet, there are some indications that we are not far off. For example, Turkey ranks high, in seventh place, among the countries with which the U.S. continuously enjoys a trade surplus. The Turkish deficit in our bilateral trade amounted to 607 million dollars in 1987. This deficit is more than the 1987 U.S. security assistance to Turkey which partially consists of interest-bearing credits. As Turkish exporters will easily eliminate this deficit if practices restricting the access of Turkish exports to the American market are removed, the Turkish government's validity of call for "less aid, more trade" becomes self-evident.

In some American circles there is a misperception about Turkish complaints on security assistance. These circles advocate that the occasional tensions in our relations originate from Turkish dissatisfaction with aid levels, without due understanding of American problems associated with the budget deficit.

It is wrong to assume that Turkey views its relationship with the U.S. from an exclusively assistance perspective. What disturbs us is mortgaging our bilateral relationship to the demands of third parties and certain pressure groups, and that efforts to isolate Turkish-American relations from these alien and harmful influences, often do, not succeed.

The Turkish public is disturbed much more than you might imagine at the provision of security assistance in this fashion and the repeated imposition of the 7 to 10 ratio year after year, according to a predetermined scenario. This ratio, unacceptable to the Administration, has no rational justification and constitutes a source of disappointment for the Turkish Government.

One of the priorities of our foreign policy is the conduct of Turkish-American relations on a healthy and solid basis. To that end, the Turkish government recently ratified the Side Letter which extended the 1980 Turkish-American DECA through 1990. The Turkish people have warm feelings for the U.S. and for the American people. But let me emphasize that the Turkish people are tremendously sensitive to attempts to inject alien factors into Turkish-American relations, particularly at the attempts to pass resolutions in Congress which distort history, encourage terrorism, and legitimize claims on Turkish territory. Our people rightfully expect that issues of intense national sensitivity to Turks should be appraised by the U.S. with due care and in a spirit of mutual respect, on which our entire relationship is based. To this end, I seek your personal understanding and interest.

During my conversations in Washington, President Reagan and members of his Administration expressed satisfaction that the dialogue initiated at Davos between the Turkish and Greek Prime Ministers has been transformed, with the Athens visit of Prime Minister Ozal, into a process of seeking durable solutions to our bilateral differences. They have expressed to me their hope that the two countries would take concrete steps towards peace and reconciliation. If you only recall that Turkey had consistently and tirelessly pursued the initiative to inaugurate a Turkish-Greek negotiating process and rapprochement, you will under-

stand that it is easy for me to assure you that the Turkish government will do all it can to make the process underway durable and successful.

The so-called Turkish threat claimed by Greece is an illusion. Mutual respect for the equilibrium and reciprocal rights and interests established in the Aegean by the Lausanne and Paris treaties constitutes the keystone of Turkish-Greek reconciliation and beneficial cooperation. Leaders of both countries owe it to their peoples to do everything in order to revitalize the Turkish-Greek friendship of the Ataturk-Venizelos era. Although we believe the Cyprus problem should be appraised on its own terms, the developing rapprochement and mutual understanding between Turkey and Greece would have positive repercussions on the situation in Cyprus. Turkey supports the Good Offices Mission for Cyprus of the UN Secretary General. The fundamentals of a bizonal, bi-communal federal system as a just and durable solution are contained in the Agreements of 1977–1979 as well as the UNSG's March 29, 1986 document. We hope that on this basis, a political solution can be reached through meaningful inter-communal negotiations. Turkey will do all she can to reach such a solution and will encourage the Turkish Cypriots in the same direction.

During my visit, some have praised the diplomatic initiatives leading to Turkish-Greek dialogue and asked me whether they could help this process. I want to share with you my response to those queries. The most positive American contribution would be continuously to encourage its two allies to seek equitable solutions to their bilateral problems. In the past, Turkey and Greece alone were able to bring about solutions even to their most complex problems. Recent history testifies that involvement of third parties in Turkish-Greek differences further complicates these problems, rather than resolving them. All those who want to see the resolution of Turkish-Greek differences should not overlook this fact, proven by experience.

Now I would like to turn to two other aspects of Turkey which are less well known than her strategic importance and Turkish-U.S. security cooperation.

By reconciling a predominantly Islamic society with secular democracy and achieving economic development within a democratic setting, Turkey constitutes a unique and compelling political model. Secondly, Turkey is a candidate to become one of the major economic partners of the U.S. Since the founding of the modern Turkish Republic by Ataturk, Turkey has made great strides in further developing democratic institutions and creating necessary conditions for smooth functioning of democracy. It is natural that we have had some interruptions along the road, since we have come a long way in a short span of time. Turkey went through such a period in 1980. We ultimately emerged from that with stronger democratic institutions, having further strengthened our democratic institutions in the light of past experience. As the general elections of 1983 and 1987 testify, Turkey today is a free country ruled under a democratic regime. The Turkish constitution and institutions are founded, as their American counterparts, on the rule of law and on respect for the inviolability of human dignity. Turkey is continuously taking new steps to strengthen her democratic institutions and practices. Recent decisions enable Turkey to join those few Western countries providing double guarantees for the protection of human rights. The Turkish constitution explicitly affirms for every Turkish citizen the right to seek justice through an independent judicial system. But, we have moved beyond national means and, by ratifying the European Convention on Human Rights, all Turkish citizens are entitled to petition the European Convention on Human Rights, which is a supra-national body. The Turkish constitution guarantees against torture and mistreatment. To strengthen further these constitutional provisions with international guarantees, Turkey has become the first state to ratify the European Convention on the Prevention of Torture and Inhuman or Degrading Punishment or Treatment. Under that convention, Turkey has opened to international inspection all its prisons, detention and police centers. This is indisputable evidence of the priority the Turkish government attaches to human rights. Likewise, Turkey has ratified the UN convention against torture, other brutal, inhuman treatment and punishment.

As I mentioned, Turkey is on her way to becoming an economic partner with the U.S. Since 1985 Turkey has been among the top 50 trading nations of the U.S. The tripling of Turkish-American trade volume between 1980–87 reflects the momentum in our economic relations. We want this positive trend to continue. But the persistent Turkish deficit in our bilateral trade with the U.S. acts as a brake against faster growth of our trade. This deficit results from practices which restrict the access of Turkish export to the American market, like textiles and steel products, practices contrary to the principles of free trade and equity. Maximum utilization of the growth, potential of Turkish-American trade, will serve our mutual interests. Turkish exports are not much diversified. That is why if Turkey is to import more from the U.S., she has to be able to export these goods without restrictions, and thus eliminate the deficit. This would also encourage the diversification of Turkish exports. The United States over the years has urged other nations to observe reciprocity and equity in trade. Ranking seventh among the countries suffering a deficit with the U.S., the Turkish request for the removal of practices restricting the access of Turkish exports is justified.

Some might think that the U.S. security assistance to Turkey compensates for the trade deficit, and that Turkey therefore should not unduly emphasize this issue. This is not correct. Between 1980–87 the American surplus in trade with Turkey amounted to 4.6 billion dollars. During the same period, grant military and economic assistance to Turkey was less than two billion dollars. It is evident that Turkish priorities lie in benefitting from increased trade opportunities and recognition of the rights in that field.

Let me conclude my remarks by touching on two other promising and positive aspects of our economic relations. First, we have taken important steps to promote and develop the institutional and legal framework of our economic and commercial relations. Under the auspices of the Chambers of Commerce of the two countries, the Turkish-American Business Council was set up. The Turkish-American Economic Consultative Council, composed of government representatives, has become operational. Negotiations for an agreement on the prevention of double taxation have reached an advanced stage. An agreement on the reciprocal promotion and protection of Turkish-American investment has been signed. Early ratification of this agreement, which has been before the Senate for some time now, would be in our mutual interest.

A second development relates to the growing interest of the American business and industrial community in investing in Turkey. We expect more and diversified investments, which have been channelled until now into agro-business, tourism, hotels, energy production and defense industries. I want you to know that we have an open and constructive mind in this regard.

Until recently, Turkish-American relations were conducted exclusively between government representatives discussing military cooperation and assistance. Today, bankers, industrialists and businessmen have moved to the center stage. This healthy development reflects the diversification and enrichment of our relations.

These new dimensions in our relations will strengthen the fabric of our mutual interests and base our relations on a more comprehensive, solid and stable foundation.

To avoid prolonging my remarks unduly, at the outset of my speech I started the discussion of Turkish-American relations with Turkish membership in NATO. But Turkish interest in America dates back to the 16th century. Indeed, 263 years before the emergence of the U.S. as a member of the community of nations, a world-renowned map made in 1513 by the Turkish admiral, Piri Reis, showed American shores. The map is proof of that early interest. The original map is in the Topkapi Museum in Istanbul. Its accuracy, given the limitations of its period, astonishes all who have seen it. It is a pleasure for me to present the replica of the map as a souvenir to the American Senate.

Mr. BYRD. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

TRIBUTE TO ROBERT C. BYRD

Mr. CHAFEE. I had the privilege today of attending briefly the luncheon sponsored by the distinguished majority leader and Republican leader for President Evren of Turkey. I do want to take this opportunity to pay tribute to the distinguished majority leader for his understanding of the role that Turkey plays in the NATO defense and the efforts that the current administration in Turkey is making to restore democracy to that nation and the leadership that President Evren is providing.

I think it is so fitting that the distinguished majority leader gave that luncheon because he has recognized right from the beginning the role that Turkey plays.

I also would like to join him in hopes that through the efforts that are being made by President Evren in its relationships with Greece that there may be a resolution to these problems that have existed between those two nations for some time. Although there is no cause yet for celebration, certainly there are signs of hopefulness in the situation.

It was a pleasure to meet those who were gathered today at the luncheon. I have heard from others many times about the splendid visit the distinguished majority leader had to Turkey. I think it was in the early part of this year.

Mr. BYRD. February.

Mr. CHAFEE. In February. And the fine role the majority leader has played throughout these NATO relationships with Turkey and the efforts to see that democracy is restored to Turkey, and that there may be a resolution of the difficulties that exist between that nation and Greece.

I thank the Chair.

Mr. BYRD. I thank my distinguished friend from Rhode Island for his succinct remarks. I also thank him for the vision that he has consistently shown in the effort to strengthen NATO and to bring about conciliation between our two NATO friends and allies, and also his consideration and recognition of the importance of Turkey to the allies and the contribution and sacrifices that that country is making to carry her share of the defense burden.

Turkey does not ask for much. We have important bases there. The Turks have been fighting the people to the north for centuries, going back to the time of Peter the Great of Russia, and beyond. Turkey is a valuable ally, standing astride, as it does, the Bosphorus; everything that comes out of that Black Sea has to go right through the straits, the Dardanelles. Turkey is on both sides, in Asia and in Europe. They are fierce fighters. They are courageous. They fought side by side with American boys in Korea. They fought well and bravely. We ought to do whatever we can to help Turkey. Turkey has severe economic problems. Most of her army is located on the border with the Soviet Union. Turkey has the longest border with the Soviet Union of any member of the NATO alliance, the longest border. She is a dependable friend, and I urge all Senators to go to Turkey and really see what Turkey is doing for the peace of the world and what Turkey is doing to maintain herself as a democracy and to lift herself up by her own bootstraps. Senators can never appreciate Turkey's strategic geographical position and her pivotal position in the alliance until they go there and see with their own eyes. I thank the Senator.

NOTIFICATION OF CONFIRMATION

Mr. BYRD. Mr. President, the other day when the Senate confirmed the nomination of Henry F. Cooper, of Virginia, for the rank of Ambassador during his tenure of service as U.S. Negotiator for Defense and Space Arms, I forgot to ask unanimous consent that the President be notified of the confirmation of the nominee. I make that request, as if in executive session, at this time.

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

NO MORE ROLLCALL VOTES TODAY

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

INTRODUCTION OF BILLS, RESOLUTIONS, AND STATEMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 7:30 p.m. today to introduce bills and resolutions, and that they may have until 6 o'clock today to introduce statements.

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

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 12 noon on next Wednesday, July 6. At 1 o'clock, the Chair will ask the clerk to call the names to establish the presence of a quorum, and a rollcall vote will occur on cloture when that quorum has been established.

It may very well be that there would be a motion to instruct the Sergeant at Arms to help to establish a quorum. That may or may not be necessary.

In any event, there will be a cloture vote at around 1:15 or 1:30, Wednesday, in that general time period. If cloture is invoked, then the plant closing legislation will be the business of the Senate to the exclusion of all other business until completed, according to the rule, unless there is unanimous consent to proceed to other business.

If that cloture motion fails, there will be a second vote on the motion to invoke cloture, and if cloture is then invoked, then the same situation will follow as I have already described.

If cloture fails on the second try, there will be still a third vote on cloture. I hope that the Senate will produce the cloture votes to shut off the filibuster so that the Senate can work its will and complete action on the plant closing bill. So, there will be rollcall votes on Monday.

Mr. CHAFEE. The Senator means Wednesday.

Mr. BYRD. On Wednesday. I thank the distinguished Senator from Rhode Island. Sometimes my thinking process gets ahead of my tongue, or vice versa.

There will be rollcall votes on Wednesday. I hope we can get much work done on Wednesday, Thursday, and Friday. There are appropriation bills and other bills that are ready to go.

And all of this is in the interest of getting the Senate's work done, hoping that we can complete the work of the Senate and adjourn sine die before the new fiscal year begins on October 1 or soon thereafter.

Mr. President, does the distinguished acting Republican leader, Mr. CHAFEE, have anything he would like to say or any further business he would like to transact?

Mr. CHAFEE. I thank the distinguished majority leader. As I understand it, the first vote next Wednesday will be in the vicinity of 1:15.

Mr. BYRD. Circa 1:15, yes.

Mr. CHAFEE. Could we go as far as to say no earlier than 1:15?

Mr. BYRD. No earlier than 1:15. Yes.

May I qualify that? One never knows. Any Senator may make motions and during that hour of debate under the rule, Senators are not precluded from making motions.

CALL OF THE CALENDAR WAIVED

Mr. BYRD. I ask unanimous consent that the call of the calendar be waived on that day.

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

Mr. CHAFEE. Put it this way: The distinguished majority leader would not call for a rollcall vote before 1:15.

Mr. BYRD. No.

Mr. CHAFEE. That is good enough for me.

Mr. BYRD. There is no intention of having a rollcall vote before 1:15.

Mr. CHAFEE. Or even a Sergeant at Arms instruction.

Mr. BYRD. That is right.

Mr. CHAFEE. Then we might have as many as a total of three cloture motions, obviously, depending on the results that same Wednesday.

Mr. BYRD. Yes. If the Senate does not invoke cloture on the first motion or on the second motion, then there will be a third vote on invoking cloture.

I thank my friend. I wish him and all Senators a pleasant and safe Independence Day holiday. I wish the same for all officers and employees of the Senate.

Mr. CHAFEE. We certainly reciprocate to the distinguished majority leader and his family.

Mr. BYRD. Mr. President, I thank my friend.

ADJOURNMENT UNTIL WEDNESDAY, JULY 6, 1988, AT 12 NOON

Mr. BYRD. Mr. President, in accordance with the provisions of Senate Concurrent Resolution 130, I move that the Senate stand in adjournment until the hour of 12 noon on Wednesday next, July 6, in this year of our Lord, 1988.

The motion was agreed to, and at 4:41 p.m., the Senate adjourned until Wednesday, July 6, 1988, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate June 29, 1988:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FREDERICK K. GOODWIN, OF MARYLAND, TO BE ADMINISTRATOR OF THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.