SENATE—*Tuesday, February 23, 1988*

(Legislative day of Monday, February 15, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Our prayer today will be offered by Rev. Edwin S. Harper, pastor of the Staunton Street Apostolic Church in Huntington, WV. Reverend Harper is sponsored by the majority leader, Senator BYRD.

PRAYER

The Reverend Edwin Stephen Harper, D.D., pastor, Staunton Street Apostolic Church, Huntington, WV, offered the following prayer:

Let us pray.

Unto Thee Our Mighty God Jesus Christ, we come to thank You, praise You and seek Your favor for our humble request today.

We thank You for the bountiful provisions You have given, allowing this world to be blessed by the presence of these United States of America. This land is Your witness to the world that righteousness exalts a nation. Here, regardless of persuasion, righteous faith has been honored and You have opened the window of Heaven and poured out blessings our barns cannot contain. Receive our heart given worship.

Praising Thee who art worthy to receive worship. Your Holiness humbled to help our faltering steps. Power metered to keep us in our weakness without destruction. Peace that overlooks our turmoil and heals our differences that we can enjoy Your unlimited grace.

To You our unmatched God we make this request today. By Thy Holy Spirit unleash the composite wisdom of these servants of this Republic. Bring to their minds forgotten truths tried by time and taught by experience. Let fear dissipate and the challenge of this day succumb to Your influence ministered through these vessels in this Chamber of law.

The records of the words of this prayer will be lost in the volume of the record of the Nation, Oh God, but the decisions made here today choose life and death, feast and famine for America and the world. For the subjects of this Senate's deliberation let this prayer become the advocate for purity in the reasoning of this day. To this burden we prostrate our hearts, seek Your favor and invite Your presence to transform this house into a cathedral of safety and strength for all.

In the name of the Lord Jesus Christ,

To Thee be glory and honor forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 23, 1988.

To the Senate:

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

JOHN C. STENNIS,
President pro tempore.

Mr. PROXMIRE 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.

TODAY'S GUEST CHAPLAIN

Mr. BYRD. Mr. President, I want to thank our guest chaplain, the Reverend Mr. Edwin S. Harper, for his uplifting prayer.

In addition, I welcome him and his family to the Capitol today, and I hope that their visit with us will be enjoyable and enlightening.

The Reverend Mr. Harper is the pastor of the Staunton Street Apostolic Church in Huntington, WV. A native West Virginian, Mr. Harper studied at the Texas Bible College prior to accepting his first pastoral charge, which was in Dupo, IL. From Dupo, he went next to Morgantown, WV, where he served a church until moving to his current ministerial duties.

Besides his church work, Mr. Harper has also served as chairman of the United Way for the River Cities, headquartered in Huntington, WV. He is also the president of the West Virginia Jobs Foundation, Inc.

Accompanying Mr. Harper to Washington today are his wife Sharon, and his three daughters, two of whom are twins.

May I say that I have visited in the church of Mr. Harper on more than one occasion. He is a minister who leaves one feeling spiritually renewed and filled, after one hears his sermons. They are great sermons.

His wife accompanies his singing. He sings well, may I say to our Senate Chaplain, who also sings well. I have had the privilege, upon one occasion, of hearing our dear Chaplain sing Amazing Grace, which is one of my favorites and a favorite of a good many of our Baptists from West Virginia, although we love all the old songs. But the Reverend Mr. Harper is also excellent in singing the old hymns and his wife accompanies him on the piano.

They are both very accomplished musicians. I wish that our Senators could hear this man deliver a sermon from the pulpit. They would never forget it. I am still benefiting by having listened to him in Huntington. It must have been at least a year ago. He brings a spiritual message. It comes from the Bible and it cannot help but touch the hearts of those who listen.

I am delighted, as a Senator from West Virginia, in having this good man visit the Senate today and open the Senate with prayer. I welcome the Harper family to Capitol Hill today and I trust that they will all return to Huntington rewarded and informed by their visit here.

DO THE SOVIETS REALLY PLAN TO LEAVE AFGHANISTAN?

Mr. BYRD. Mr. President, earlier this month, Soviet General Secretary Gorbachev announced that if Pakistan and Afghanistan reach agreement by March 15 at the upcoming round of U.N.-sponsored negotiations in Geneva, the Soviets could begin withdrawal of their troops from Afghanistan on May 15. Mr. Gorbachev also said that withdrawal could be completed in 10 months. Is it possible that more than 8 years after they invaded Afghanistan the Soviet Union really, really intends to leave Afghanistan? Do they really intend to leave Afghanistan?

I do not know the answer to that question. I do not think anyone knows what the Soviets really intend to do. It may be that they have taken a firm decision to get out of Afghanistan regardless of the cost. I know that some of the administration leaders are convinced that Mr. Gorbachev has really made a decision to get out of Afghani-

stan. But when? And under what circumstances? "Thereby hangs a tale."

After all, the Soviets have lost nearly 35,000 to 40,000 dead and wounded. It may be that it has become too costly for them to stay, but they will withdraw only if they are able to maintain a proxy government in Kabul or if they are able to accomplish their goals through subversion rather than fruitless and costly fighting. Or it may be that they have no intention of withdrawing, but are gambling that final agreement at Geneva will be so difficult to reach, that Mr. Gorbachev could gain in the public relations arena where he is very good, and still welsh on his earlier announced withdrawal.

What I do know is that the United States did not create this mess and it is not our responsibility to solve it for the Soviets. It is not our responsibility to reward the Soviets for getting out.

There is a very simple bottom line here: in December 1979, the Soviets invaded Afghanistan, they have brutally occupied it for over 8 years, and they must leave. They do not need our help to leave Afghanistan. All they need to do is turn their troops, their divisions, their guns, their planes, around and head north, back to the Soviet Union where they belong. It's as simple as that.

So if they want to get out, what is holding things up? According to the Soviets, the problem now is that Pakistan will not sign the Geneva accords with the Soviet puppet leader. The Pakistanis are insisting—rightly, I believe—that an interim government acceptable to the resistance be formed before they are willing to sign. They also suggest that the signing be delayed until the end of March to allow more time to form a coalition government. Why should we ask Pakistan to endorse the credibility of the Afghan puppet rulers? Why should we legitimize the partners of the Soviet occupying force?

The Pakistani Government should not be put under any pressure to agree to Soviet terms for a settlement. The future of Afghanistan should not be driven by some United States-Soviet summit schedule.

Let us watch that very carefully. Are we going to be driven by a summit schedule? Let us hope not. We are on the summit binge, it seems, and many, many people are questioning as to whether or not we may make some deal, either on the table or under the table, make some deal, directly or indirectly, in order to further a summit meeting, in order to have a summit meeting soon on nuclear arms.

I suggest that we have a summit meeting when we are ready, and certainly that we have a treaty when it is ready; that we not be guided by any deadline in dealing with the Soviets anent the START Treaty. Time deadlines are not important. Let us have the treaty when it is ready. Contents of the treaty and the security interests of the United States and her allies are what should drive us.

The Soviets naturally seek opportunities to negotiate with the West under circumstances where the West is under some pressure of deadline, be it political deadline, summit deadline, or election deadline. The Soviets, of course, do not operate under deadlines. They can string the Afghan question out as long as they like.

The next round of United Nations-Geneva negotiations between Pakistan and Afghanistan is scheduled for March 2. There is still much to be negotiated at Geneva, and there are a number of very critical problems which must be addressed outside the framework of the Geneva negotiations. One of the four documents being negotiated at Geneva is a declaration of guarantees by the Soviets and the United States, stating our support for a political settlement and ensuring that there is nonintervention by Pakistan and Afghanistan in each other's affairs. But the United States would be foolish to sign up to such a declaration without the settlement of some very troublesome issues. First, in the context of the Geneva negotiations, the exact terms and conditions of the Soviet withdrawal still must be addressed. The Soviets are talking about withdrawing over a period of 9 or 10 months, a quite leisurely pace for withdrawal. The Pakistanis have suggested a 3-month timeframe, which is closer to the mark. After all, Mr. President, what is the purpose of an Afghan settlement? It is to get the Soviets out, first and foremost. Second, it is to ensure that Afghanistan can take its place as a neutral and nonaligned country, with its own political integrity, able to exercise self-determination. Third, it is to allow such an Afghanistan to absorb the refugees which now reside in Pakistan and Iran.

There are a number of issues separate from the specific Geneva accords which demand attention. These include aid to the resistance, the status of Soviet advisers, the future of the nearly 400 bilateral treaties the Soviets have made with the puppet Afghanis, and the positioning of Soviet troops across the Soviet-Afghan border. None of these issues have been resolved.

What about the aid question? The Soviets have been silent on the question of assistance to the regime and supporters in Afghanistan during and after a political settlement, and during and after a military withdrawal. Yet, they are demanding the U.S. terminate its aid to the Mujahadeen at the first sign that Soviet forces seem to be withdrawing.

Are we silly? Are we foolish? Are we dumb?

This, in my view, is an absurd proposition. I oppose it strongly. Why should the United States terminate assistance to the resistance the day the Soviets begin their withdrawal, the Soviets are under no reciprocal requirement to terminate their assistance to the puppet regime? That is a recipe for disaster. Under those terms, the Soviets would have 9 or 10 months to continue to equip the Afghan military and prepare it for a bloody civil war, while the resistance would be cut off.

American aid should stay in place until it is absolutely, indubitably and unquestionably clear that the Soviets are mainly out and that they are not redeploying their forces to be inserted again, and that the Mujahadeen is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections.

Furthermore, what are the Soviets leaving behind, even if they withdraw their regular troops? They have made it clear that they are going to leave some 9,000 to 10,000 advisers in Afghanistan. What are they going to be advising on? They ought to come out as well. What would be the Soviet Government's reaction to a proposition that the United States now put 10,000 of its own advisers into Kabul? That would not be a very welcome proposition in the exciting talks leading up to another superpower summit.

Pakistan is worried that if it signs peace accords with the puppet regime, it will be granting that puppet government international legitimacy. More to the point, from the Pakistanis'perspective, if the Sovietspull out with the puppet regime intact, the resistance will continue fighting and Pakistan will continue to be stuck with the 3 million Afghan refugees who will be unable to return home. In the eyes of the Pakistanis, that would be a sham settlement. I agree.

The Soviets have attempted to colonize Afghanistan. They have revamped the educational system, they have exported young Afghan children to the Soviet Union for indoctrination.

Imagine that! How would you like to have your own children ripped up by the roots, taken to the Soviet Union for indoctrination? Would you feel like taking that rifle off the wall and using it?

They have established a secret police, and they have remade the Afghan Army in their own image. Why should the United States be expected to support the proposition of allowing the Soviet puppet regime to remain in place after the Soviets withdraw? I understand the Mujahadeen have reluctantly agreed to allow some elements of the PDPA party, the party now in power in Kabul, but not its current ruler, Mr. Nujibullah, to remain in place. In other words, the

makings of an interim coalition with some elements of that party is available. That is quite a concession on the part of the Mujaheddin, and they should not be pressured to go further.

What exactly is it that the United States is being asked to guarantee? We cannot guarantee anything in that part of the world. We were not able to guarantee that the Soviets would not invade in the first place, and we will not be able to guarantee that they will not reinvade. Are we being asked to guarantee that we will not provide assistance to the resistance if the Soviet Union undertakes yet another brutal invasion and occupation of Afghanistan once it gets out, if it gets out?

Are we putting ourselves in the position of guaranteeing a medal of good behavior to the Soviets for withdrawing their military units, with the bonus of being able to maintain an overbearing presence, and to continue an aid program to be the primary force behind events in that nation? I see no sense in that at all.

Mr. President, there have been suggestions that a U.N.-sponsored peacekeeping force would be useful to help guarantee that Soviet forces can withdraw in an orderly way without being attacked on the way out. Such a force might also help keep the peace in the major cities while an interim government organizes the nation's political future. I would suggest that it might be helpful for the Soviets to seriously consider the creation of such a force. I believe it would be in the interests of all parties if such a force were to be included in the fourth Geneva accord which deals with withdrawal.

Mr. President, we can expect the Soviets now, after a decade of warfare against the Afghan people, to claim that the United States and Pakistan are holding up their withdrawal from that country because of unreasonable demands on the Soviets. We have to be prepared for that kind of disinformation, and we have to give the Government of Pakistan all the support possible to hold firm against the expected Soviet negotiating and disinformation tactics.

The Soviet Union invaded Afghanistan and carried out a scorched Earth war against a nation with little more than the courage to defend itself. After nearly a decade and 1 million deaths, the Afghan people have refused to collapse. With public opinion mounting, casualty lists, and finances running against further engagement, Mr. Gorbachev is looking for a graceful, easy way out. His hope is to make the Soviet withdrawal appear to be an act of generosity, good will—rather than a necessity. We should not reward the Soviets for having failed to devour Afghanistan, nor must we let the Soviets quit Afghanistan wrapped in clouds of glory. Their brutal occupation has not been honorable. Their defeat should not be rewarded. They should simply get out.

Mr. President, there was an excellent article in the Sunday, February 21 edition of the Washington Post in the Outlook section. The article was titled "Does Moscow Really Plan on Leaving Afghanistan?" by Lally Weymouth.

I ask unanimous consent that that article appear in the RECORD.

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

DOES MOSCOW REALLY PLAN ON LEAVING AFGHANISTAN?

(By Lally Weymouth)

ISLAMABAD, PAKISTAN.—"I have never seen a test case like this," says French diplomat Jean-Francois Deniau of the proposed Soviet pullout from Afghanistan. "It's the only way we can see if Gorbachev can do what he says. It's so important for freedom and for hope. It's like D-Day. . . . We can't accept that a question like this will receive a false solution."

A real solution, says the French special envoy on Afghanistan, would be the complete withdrawal of Soviet troops and the creation of a truly independent country—as friendly with Pakistan as with the Soviet Union.

The French diplomat is asking the right questions: Is Mikhail Gorbachev's announcement that the Soviets will withdraw from Afghanistan—trumpted around the world this month—for real? Does Moscow plan a "real solution," or just a cosmetic one that maintains a Soviet proxy government in Kabul? And will the Reagan administration, anxious for a foreign-policy success, accept a false solution?

Answers to these questions could begin to surface tomorrow, as Secretary of State George P. Shultz holds talks in Moscow on Afghanistan. Conservatives worry that he may accept a deal that would halt U.S. aid to the mujaheddin at the start of a 10-month period of promised Soviet troop withdrawal. Such a deal, made without the participation of the Afghan resistance fighters who waged the war, could well collapse—with the resistance fighting on and Afghanistan becoming a second Lebanon.

A clear picture of what's at stake in the current diplomatic debate over Afghanistan emerges from conversations with some of the key players—in the Soviet Union, Afghanistan, Pakistan and China. What comes through above all is a sense of uncertainty about what really lies ahead in Afghanistan. Many of those most closely involved are skeptical about Soviet intentions and doubtful that it will be possible to create the neutral, nonaligned Afghanistan that nearly everyone proclaims as the goal. These comments provide a healthy antidote to the optimistic expectations prevalent now in Washington that a lasting settlement of the Afghan conflict is in sight.

Here's a summary of what some of the key officials told me in interviews during the last two months:

The Soviet Union. Soviet First Deputy Foreign Minister, Yuli Vorontsov, claims that as a result of the so-called "new thinking," the Soviets have decided to withdraw their troops from Afghanistan and to arrive at a political settlement. But Vorontsov insists that withdrawal from Afghanistan does not mean defeat. Indeed, he notes that "we haven't used all the military power we could have applied."

Anatoliy Dobrynin, head of the Soviet International Department, says he favors withdrawal but warns that if the withdrawing Soviet troops come under attack, "it will make the process of withdrawal more difficult. We are not prepared to withdraw at any cost."

The future Afghanistan that Dobrynin says he envisions is a "neutral or nonaligned country with no foreign bases." (The Soviets use the words neutral and nonaligned interchangeably, ignoring the differences between Austria, a neutral, pro-West country, and Angola, a Marxist regime that describes itself as nonaligned.) Asked where the neutrals will come from—in a country where one side has been killing the other for the last eight years—Dobrynin admits it is difficult to say.

The Soviets expect that the Geneva accords between Pakistan and Afghanistan will stop western aid to the *mujaheddin* from coming across the Pakistani border. But Iran, home to another 1.5 million Afghan refugees, is another gateway for aid, and Iran is not part of the Geneva talks. Vorontsov says the Soviets are hoping to get the Iranians to seal their border, too.

Even if the Soviets withdraw their troops, says ambassador-at-large Nicholai Kozyrev, they will continue "to provide assistance to Afghanistan." Economic relations, he said, have good prospects. After all, the Soviet Union has signed about 300 economic treaties with the Soviet-backed Afghan government and it is hoping that the next government will assume the obligations in these treaties. One treaty is thought by Pakistani intelligence to cede the Wakhun corridor to the Soviet Union.

Both Kozyrev and Vorontsov say that Soviet advisors will remain in Afghanistan even if troops are withdrawn. At present there are said to be 9,000 Soviet advisors in Afghanistan—directing every aspect of Afghan life.

Afghanistan. In Kabul, signs of Soviet control are evident everywhere from the moment you land at the airport. My Aeroflot plane was encircled as it landed by other Soviet planes that dropped flares to distract the Stinger missiles the *mujaheddin* possess.

It's easy to spot Soviet convoys rolling down the road. And you can't overlook the large KGB headquarters, which is centrally located. The KGB, and its Afghan counterpart, known as KHAD, are said to rule the city. Remarks one western diplomat: "Here, there is not one centimeter of change."

"It's a complete and methodic colonization," explains one diplomat in regard to the Sovietization of Afghanistan. Since 1980 when the invaded, the Soviets have taken about 60,000 young Afghans to the Soviet Union to be "educated." "All the main officers in the Afghan administration were formed in the USSR," says a knowledgeable western source in Kabul.

In Kabul, I found the diplomatic community surprisingly united in their conviction that the Soviets aren't likely to withdraw from Afghanistan—and that even if they do withdraw some troops, Soviet influence will not disappear.

One senior western diplomat in Kabul made the case most effectively. "The Soviet Union doesn't want to abandon Afghanistan," he says. "The Soviets want you, by diplomatic means, to help them stay in Afghanistan. . . . They want to deceive your country. . . . Afghanistan isn't Vietnam. Af-

ghanistan is at the border of the Soviet Union. They want to stay and they want the guarantee of the United States that they can stay."

The West is overestimating the *mujaheddin*, says this veteran diplomat in Kabul. He insists that western analysts are wrong in predicting a bloodbath if Soviet troops withdraw, as the *mujaheddin* take their revenge on the puppet Afghan regime: "Even if the Soviet troops pulled back, the Kabul regime will be aided by advisors, weapons and money. It is possible that it is strong enough to resist and the *mujaheddin* are divided and will not succeed."

Pakistan. There is pressure on Pakistan to agree to a settlement at the upcoming Geneva meeting with the Afghan government, scheduled for March 2. Gorbachev said a week ago that if an agreement is signed by mid-March, then the Soviets will start to pull out their troops in mid-May. With a summit coming in June, American officials would like to have the Afghan war settled so that it won't obstruct disarmament talks.

The Geneva negotiations have been underway since 1982. So far, Pakistan and Afghanistan have managed to agree on three points: reciprocal assurances of non-interference and non-intervention by Afghanistan and Pakistan; guarantees of this non-interference by the Soviet Union and the United States; the right of Afghan refugees to return to their homeland. A fourth item that would provide a time-frame for withdrawal of Soviet troops hasn't yet been resolved.

Gorbachev's recent proposal of a 10-month withdrawal period seemed to close the gap, and some analysts thought a settlement was near. Then Pakistan's President Zia ul Haq introduced a new element when he told me in an interview last month that he would not sign the Geneva Accords with the Soviet backed president of Afghanistan, Najibullah. Zia said he would sign the accords with a coalition government formed of and by Afghans and controlled by the *mujaheddin* and Afghan exiles.

The reason for President Zia's demand for an interim government is that he wants to be sure that an agreement is a real agreement—that it will insure both the withdrawal of Soviet troops and the ability of the 3.5 million Afghan refugees housed in Pakistan to return to their homes.

A former senior Pakistani official explains that Islamabad is worried that if Pakistan signs the Geneva accords with Najibullah, it will achieve what Deniau calls a false settlement—one in which the *mujaheddin* are excluded and continue to fight, one that gives Najibullah the legitimacy he has been denied for so long and one which leaves Pakistan stuck with the Afghan refugees, who won't return home as long as Najibullah reigns.

The present Soviet strategy, explains one senior Pakistani official, is to improve relations with both Iran and Pakistan so that "sandwicked between the two, Soviet security in Afghanistan can be insured." In five to 10 years, according to one knowledgable Pakistani, the Soviets expect to have pro-Soviet governments in both Tehran and Islamabad: "That could be not an unreasonable expectation," he says. "Then Soviet influence could extend into India, Pakistan, Iran and Syria, and you would have a whole belt."

As for Afghanistan's future, a Pakistani defense analyst explains "I think the Soviets will withdraw but leave Afghanistan in a state of civil war like Lebanon so they retain the option of returning."

Summing up Afghanistan's future with an analogy, one Pakistani official asks: "Is it possible for Mexico to have any other influence than the United States? A superpower expects its shadow to fall on Afghanistan."

China. Although President Zia is often portrayed as a hardliner, Chinese officials and analysts take an even tougher position—skeptical of Soviet intentions to withdraw from Afghanistan and convinced that increased aid to the resistance is the key to removing the Soviets from Afghanistan. (An end to the conflict in Afghanistan has been one of China's three conditions for improving relations with the Soviet Union.)

Chinese defense analysts at the Beijing Institute of Strategic Studies express doubt that the Soviets are sincere in their stated intention to withdraw from Afghanistan. "The Soviet condition is that the United States and other countries stop interference,' says one expert. "For the United States and China to cut off the resistance is a condition that must not be accepted."

The Chinese analysts agree that the so-called "southern strategy" of the Soviet Union—the drive to control warm-water ports—hasn't changed. "It started back in the Czarist period," says one. "It's their dream. They won't give up what they have achieved: They have got Afghanistan and it's a springboard for the Soviet Union."

President Zia of Pakistan had disclosed in our interview that Chinese aid to the resistance was as important as U.S. aid. A senior Chinese official, speaking anonymously, confirmed Beijing's role: "We have been helping the Afghan resistance forces for many years now with arms and money and are still continuing to do that." The defense analysts advocate increased aid to the resistance from both the United States and China as the most effective way to persuade the Soviets to withdraw from Afghanistan. Argues one: "The right approach isn't to reduce our bargaining position but to reduce theirs. We should increase our aid to the Afghan resistance and not stop until after the Soviet Union withdraws its troops."

One senior foreign ministry official warns that "some U.S. friends are too optimistic about the Soviet withdrawal." Huan Xiang, a senior official, puts it this way: "I guess the Soviets do want to withdraw but how to withdraw is the question. They want to leave a pro-Soviet government in Afghanistan and are finding it difficult."

The Mujaheddin. The last word belongs to Younis Khalis, one of the leaders of the Afghan resistance, and it doesn't bode well for a negotiated settlement. "We said the Russians should leave Afghanistan. This is our suggestion," says Khalis. But he isn't interested in Zia's idea of forming an interim government that would give even a minor role to Najibullah's party, the People's Democratic Party of Afghanistan, or PDPA: "We will never accept any communist element in a future government of Afghanistan."

Khalis says the resistance groups "reject the Geneva negotiations because the real parties [to the conflict], the *mujaheddin* and the Russians, were not participating. Any outcome to such a negotiation would not be acceptable to the *mujaheddin.* The Russians, if they really want to leave Afghanistan, should suggest negotiations with the *mujaheddin.* Then we will be ready to sit down and negotiate about a peace settlement. There is nothing in between."

Mr. President, I apologize to the distinguished acting Republican leader for the time I have taken this morning, and I also apologize to the occupant of the chair.

RECOGNITION OF THE ACTING MINORITY LEADER

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

THE REMARKS OF THE MAJORITY LEADER

Mr. SIMPSON. Mr. President, it is a pleasure always to hear the majority leader speak on things for which he has a passionate belief, and that is obviously one, and I understand that. It is certainly no transgression upon my time. I was well worth hearing.

THE REVEREND EDWIN S. HARPER

Mr. SIMPSON. I do want to thank Rev. Edwin S. Harper, of the Staunton Street Apostolic Church in Huntington, for certainly a fine opening prayer. I am certain that Reverend Harper is, indeed, an inspiration to his congregation, and the words of the majority leader, being as commendatory as they are, will certainly give that every credence. I thank the reverend.

Momentarily, we will have morning business. Senator BOND is here, Senator REID is here, and Senator PROXMIRE, of course, the occupant of the chair, is here for his daily remarks, which are actually read by me. I greatly admire the man who is the occupant of the chair, and have since he came here, because of his spirit and honesty and zeal.

THE SOVIET PRESENCE IN AFGHANISTAN

Mr. SIMPSON. Mr. President, the remarks of the majority leader about the Soviet presence in Afghanistan should be heeded by us. We do have that need for healthy skepticism about the proposed pullout until the Soviets are truly out, I certainly agree, with all their forces. Certainly we cannot go wrong when we approach our relationships at this time with the Soviets with skepticism. That does not mean cynicism but certainly skepticism. History has shown us that our efforts, indeed, have been undertaken with good faith with regard to arms reduction and that good faith, seasoned with the skepticism of these latest Soviet moves, will, as the majority leader has indicated, serve us well.

CAMPAIGN FINANCE REFORM

Mr. SIMPSON. Mr. President, just one other thing. We are obviously la-

boring along with S. 2. Maybe we can get there, maybe we cannot. But the issue is this, and I want to get it crystallized in the minds of those on both sides of the aisle: The ordinary amendment process in the Senate is usually very open and very free.

There is in our usual deliberations a very loose test of germaneness, and even if an amendment is ruled out of order, the Chair can be reversed on a simple majority vote. But please heed that in this current situation the amendment tree is filled, in a very, very skilled way, and we are all aware of that, nothing sneaky about it, nothing of that nature, but it is filled.

Now, both on the bill itself and on the motion to recommit with instructions, the practical effect actually is S. 2 is not really amendable at all at this point. Of course, once an amendment is agreed to or after the bill is reported back pursuant to the motion to recommit, further amendments would be in order.

(Mr. BYRD assumed the chair.)

Mr. SIMPSON. But if cloture is invoked—and I hope all are heeding this—then a very different situation is created with regard to S. 2. In addition to the limitations on debate, cloture makes it exceedingly difficult to go to any other amendments. Only amendments filed by certain times are in order; a much tighter test of germaneness is applied. Amendments must be not only germane to the subject matter, they must be germane to provisions actually in the bill. No "new matter" may be introduced. I think that since most of the amendments of those opposed to S. 2 would be considered as "new matter," the effect of cloture would be effectively to prevent us from offering amendments.

That is the law of the land right now. Amendments to raise or lower the spending limitations, amendments to omit or include soft money, amendments to deal with in-kind contributions or not would very likely be ruled nongermane.

I think that needs to be said. Anyone opposed to this basic bill should not be led to believe the plea of just helping to get it before the body, to help us get it before the body, to assist us with cloture to do that. But a cloture vote in this situation with the tree built as it is, all done very adroitly and honestly, pretty well closes up shop for the opponents.

So I know the majority leader has indicated to the fourth estate that there are some on his side of the aisle who have never had the pleasure of all-night sessions, at least 20. I have not done a poll on our side as to how many have been unable to savor the joy of an all-night session, but it must be a similar number. We hope they have their knapsacks and sleeping bags and will be prepared, because it might come to that. I do not think the majority leader wants it. We do not want it. But it is obviously one of those gut hard issues that come before a legislative body where you struggle and then you do the usual procedures you need to do, and then you do something which is the most extraordinary thing, you vote. And that is the reason we spend so much time in this place doing other things, because usually one side or the other does not want to vote and that is something we eventually have to do.

WILL BALL

Mr. SIMPSON. Just in my remaining 2 minutes, let me comment on Will Ball, who is a former staffer here in the Senate and who now will become the nominee for the Secretary of the Navy, as Mr. Webb resigns.

Certainly Mr. Webb served with distinction. I came to know him when I was on the Veterans' Affairs Committee. He is a distinguished veteran and author. He will go on to great things. He is a splendid man and I wish him well. I do not know the circumstances of his leaving.

But I do know that we will miss Will Ball. He served here for Senator John Tower. He went on to serve in the executive branch at the Pentagon, and most recently served with distinction as congressional liaison for the White House where we have all come to know him on both sides of the aisle. I have a great respect for his actions and integrity in what is surely a most difficult post, being strung out between the sometimes contentious forces of the executive and legislative branches of our Government.

So I have found him to be a very pleasant and able man, an unflappable type of individual, always with good grace and good humor, and ultimate patience. I have watched that in him. I shall personally miss him. I know the minority leader shares my views. Senator DOLE worked with him very closely on so many issues.

So he is a very special man. He is very well qualified for the new position for which he has been nominated, and he is a known quantity to all of us. I trust he will be swiftly confirmed as Secretary of the Navy.

I believe that concludes my remarks, Mr. President. I thank the majority leader.

I thank the Chair.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Under the previous order, there will now be a period for the transaction of morning business for not to exceed 20 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

TIME FOR UNITED STATES-SOVIET CONVENTIONAL ARMS REDUCTION HAS COME

Mr. PROXMIRE. Mr. President, at long last we are beginning to recognize the true basis for United States-Soviet arms control. Thanks to Senator CARL LEVIN's recent thoughtful analysis of Soviet and United States military strength and weakness we are beginning to understand the truth about the superpower conventional military forces. The Soviets are not 10 feet tall. Neither are we. Both countries have massive nuclear arsenals. Each superpower can utterly devastate the other in a nuclear attack, and I mean utterly. The National Academy of Science tells us that if 1 percent of the Soviet nuclear arsenal should strike American targets, we would suffer between 35 and 55 million dead Americans. That's right, I said 1 percent. The Soviets would suffer similar devastation if we should initiate a nuclear strike. President Reagan and Secretary Gorbachev are absolutely correct when they recognize this threatened devastation and both say that a nuclear war can never be won and must never be fought.

So both superpowers have infinitely destructive offensive nuclear juggernauts. Now how about the conventional military power of both sides. Frankly, as offensive threats, both are pathetic. The United States found out the limits of our conventional power in fighting a conventional war with a little third-rate power, Vietnam, 10,000 miles from our shore. Sure we had every kind of technological advantage. We had aircraft carriers. We had air domination. We had total control of the seas. We had the infantry equipment. We had the great technological power; and we lost. We failed ignominously. We failed completely. Our offensive conventional military power couldn't knock over a little army fighting with relatively primitive weapons. Sure our supply lines were very long. Yes, indeed, our democratic country was at best divided, at worst downright hostile to the Vietnam war. But all that matters is that this great world military power lost.

So what does this tell us about our chances against a Communist alliance led by the Soviet Union? Let's take a look at the Soviet Union's recent performance. For the past 8 years the Soviet Union has been at war with little third-rate Afghanistan. In this case the Soviets unlike the United States in Vietnam, did not have a 10,000-mile supply line to worry about. Afghanistan is right on the Soviet border. And sure there may have been muttering by some Soviets against the Afghanistan war, but keep in mind that the Soviet Union is not a democracy. It has no free press. The only mass protest any Soviet citizen can

hear about, the Afghanistan war, is one the Politburo wants him to know about. In prosecuting its war against Afghanistan for 8 years, the Soviet leaders didn't have to worry about a critical press or critical TV commentaries. President Lyndon Johnson is said to have remarked that when he lost Walter Cronkite, he lost the Vietnam war. The Soviets have no Walter Cronkite. Oh, yes there have been recently reported Soviet citizen criticisms of the Afghanistan war and pleas to end the fighting and bring the boys home. You can be sure those protests were scripted and orchestrated by the Politburo. Gorbachev and his Kremlin team want out of Afghanistan. The protests serve their purpose.

So what do these two defeats of the world's preeminent military powers tell us about the limits of modern day super technological power in conventional war? They tell us that neither country fighting a conventional war outside its own territory—that is an aggressive war invading another country's homeland—that neither of the superpower has the power of a butterfly's hiccough. Can anyone really believe that a Soviet Union that in 8 long years was unable to overcome the little neighboring country of Afghanistan could sweep through western Europe and overwhelm a North Atlantic Treaty Organization that has fewer but far better war planes, far more experienced pilots, fewer but far newer and better tanks, fewer but far newer and better artillery, and a far better and more cohesive military alliance in NATO than the Warsaw pact? The Levin study shows the Soviet Union generally superior in number of tanks, planes, artillery pieces, and personnel, but inferior in quality and specially deficient in the training, readiness, morale, and cohesion of their alliance. The Soviet forces are also weak in the very areas such as the German front where conflict is most likely to begin. Senator LEVIN sees the conventional forces in Europe as "roughly equal." He's right.

Here is the ideal situation for an agreement for both sides to reduce—in concert—the conventional forces that represent such a painful economic burden on the United States and the Soviet Union. Mutual, verifiable negotiations could free tens of billions of dollars of resources for improving the economic life of people in both countries, while strengthening the national security of both. Both sides fully understand that a war between NATO and the Warsaw Pact would swiftly become a nuclear war and that therefore such a war is a very distant possibility. Even that most unlikely possibility would be clearly reduced by an agreement for conventional arms reduction on both sides. The United States misadventure in Vietnam and the Soviet disaster in Afghanistan should have convinced both sides of the folly of waging conventional war on foreign soil. Thanks to that understanding the time for conventional arms control has come.

BANKING LAWS AND THE CONSUMER

Mr. PROXMIRE. Mr. President, as the Detroit Free Press stresses, it is high time that Congress address the needs of the consumer as we consider banking law. This, in the editorial writer's mind, means that banking services should be expanded while regulation is strengthened.

As the author of the legislation that does exactly this, I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Detroit Free Press, Aug. 18, 1987]

CAVEAT: NEW BANK LAW DOESN'T DO MUCH FOR CONSUMERS—OR BANKS

A lost opportunity: Congress passed and the president signed major new banking legislation that does little to modernize the antiquated laws regulating the nation's banking industry. Competition among various financial institutions remains severely restricted and U.S. banks, excluded from some profitable areas of business at home, are likely to watch their position continue to deteriorate in the global market. This result is not only a setback for major banks and a political defeat for the Reagan administration, but a loss for the consumers as well.

In essence, Congress succumbed to pressure from the securities underwriting, brokerage and insurance industries to bar banks from competing in those areas. While the existing laws—the most important of which were passed in 1927, 1933 and 1957—sought to divide the financial business by product and geography, many banks have been exploiting the loopholes. The new law orders banks not to start any new such ventures until next spring, when Congress will decide whether to make the ban permanent.

Congress also moved to prevent nonbank companies from competing with banks on their traditional turf; newcomers won't be able to offer checking accounts or make commercial loans. "Nonbank banks" already in existence, such as Sears or Merrill Lynch, have had a seven percent cap put on their annual growth.

The legislation includes minor improvements in the consumer protection department: Beginning in September 1988, banks will have to clear checks faster, and they will have to adivse in advance the buyers of adjustable rate mortgages on how high the rate can climb. On balance, however, the new law denies Americans the benefits of increased flexibility and competition.

The issue of bank powers is back in the Senate Banking Committee now. There is faint chance, however, that the committee's hearings will lead to prompt action unless the potential beneficiaries of deregulation—and there are many of them—begin to speak out and better organize their lobbying efforts.

Mr. PROXMIRE. I yield the floor.

(The remarks of Mr. BOND and Mr. REID relating to the introduction of legislation are printed later under Statements on Introduced Bills and Joint Resolutions.)

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

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

SOUTHEAST ASIA REFUGEES AND U.S. FOREIGN POLICY

Mr. HATFIELD. Mr. President, events over the past several weeks in Southeast Asia have exposed all of the weaknesses of our current foreign policy there, and the most unlikely and unwelcome of outcomes looms possible: a weakening in the friendly, important relationship between the United States and Thailand. I rise today to discuss these events, to state my hope that no damage will be done to our relationship with Thailand, and to discuss a strategy that would avoid a recurrence of such problems in the future.

The point of confrontation involves the fourfold increase in Vietnamese boat refugee arrivals in the Trat Province of Thailand, the majority of these refugees being escorted across Cambodia and to a coastal area only an hour or two boat ride from Thai shores. It is a big cash business in Vietnam and it has led to tens of thousands of refugees paying their way out of Vietnam; perhaps more accurately, bribing their way out of Vietnam because of the corruption of the whole system.

In January, the Ministry of Interior in Thailand attempted to stop this wave of refugee migration by pushing the boats back. These pushbacks led to scores of deaths, and now hundreds of refugees are marooned on little islands off the coast of Trat Province in Thai territory. Some of these refugees went days without food and water, and all of them are living in danger this very moment.

I do not suggest that I have a solution to the problems of first asylum. But the United States and Thailand have joined hands for a decade in dealing with the Indochinese refugee problem, and today we must renew our vow to be compassionate and humanitarian when people reach out to us from countries that are mired in hellish economic and political conditions. We have stuck together for 10 years in this unprecedented response to the misery and suffering pouring out of Cambodia, Vietnam, and Laos, and we cannot walk away from the problem now.

It appears that the worst is over, and the Thai National Security Council announced last Friday that it does not endorse a policy of pushbacks. They do want the world to know that the Thai cannot bear the refugee burden alone, and the United States must be the leader in the international effort to mitigate the suffering of Indochinese refugees and to assist the Thai Government.

I have been assured that food and water will be given to the refugees, that sick refugees will be evacuated to the shore, and that soon the refugees will be moved to a more secure location. I met with the Thai Ambassador and expressed my grave concern over the disturbing events of the last month and affirmed the Senate's clear position of opposition to pushbacks at any place: on the coastal shores, up in the north along the Mekong, or anywhere else in the area. In light of Thailand's extraordinary record in providing asylum to refugees and its loyal forbearance with vacillating U.S. policies, I am confident that the worst is over. When the Thai see thousands of refugees arriving at a time when resettlement countries are becoming increasingly reluctant, they become concerned that no one cares. That is why the United States must live up to its commitment to maintain a humane and generous refugee resettlement and protection policy in Southeast Asia. That very issue was debated and voted upon last October and passed the Senate by a 2-to-1 margin, and became part of the continuing resolution adopted 2 months ago.

But today there are three major problems which must be addressed if the United States is to honor its commitment to Thailand, Malaysia, and Hong Kong and the region's refugees.

First, the United States must maintain an active embassy operation that processes refugees smoothly and monitors protection problems vigorously. The Appropriations Committee last year put report language in the Foreign Operations Appropriations bill mandating a vigilant protection effort at the several refugee camps in Thailand. This language stemmed from a hearing chaired by Senators INOUYE and KASTEN a year ago when the committee lambasted the Department of State for the slack monitoring efforts in northern Thailand when scores of Hmong were pushed back across the Mekong, many presumably to their deaths.

So it is nothing less than disgraceful that after the first reports of interdiction and death surfaced January 25, and after hundreds of refugees were stranded on the 50 little islands in that area, with no food or water, that it was not until February 10 that the first American embassy protection officer took the 5-hour car ride to Trat province to see firsthand what was happening. And this took place the day after I personally called the Department to ask what our people had learned on site. It took 2 weeks for the Department to judge the situation serious enough to send one of the nine refugee office personnel to the scene.

Mr. President, we targeted moneys in that budget, in that appropriation, to provide additional refugee officers in the first place to deal with pushbacks and other inhumane actions.

Mr. President, the Congress is being left with no choice but to set up an earmarked account for refugee protection in Thailand like we did with our successful antipiracy project—that appears to be the only way the Department of State will respond to the very clear outcry from Congress for enhanced refugee protection monitoring. At a time when trained eyes were needed to report on the developments endangering first asylum, again our refugee office was sound asleep. That has to change.

My second concern is best presented by a New York Times editorial published last week. Somehow the Department of State is toying with "reallocation," the idea of pitting Southeast Asian refugees and Iranian refugees against Soviet Jews and Armenians. The mere suggestion of transferring from Southeast Asia numbers, particularly at this volatile moment when the Thai have grown weary of conflicting signals from the United States, is not only an affront to the two-thirds of the Senate, it is a breach of promise to the Thai. The emergency powers of the Refugee Act can be exercised, and Congress can work with the administration to fund new refugee numbers from the Soviet Union this year or next year. So it is not an either/or; it is not pitting one against the other so that we have to make a choice.

Now is not the time to be nickel and diming Thailand on numbers.

Mr. President, my final point goes to the heart of the problem, and that involves our overall U.S. foreign policy in Southeast Asia. My friend ALAN SIMPSON articulates this point best—the refugee problem will not be solved until we deal with the "source" of the problem and that is the Vietnam Government and its pursuit of the war in Cambodia and its pursuit of other policies.

Last February, I met with President Reagan and Secretary Shultz and suggested technical offices be established in Hanoi and Washington to facilitate progress on the settlement of the humanitarian problems separating our two governments, such as the MIA and the POW and other such humanitarian problems.

Mr. President, 20 Senators joined me in April by cosponsoring Senate Concurrent Resolution 54 which I submitted after General Vessey was designated the President's personal emissary to Vietnam to elevate the discussions on settling these humanitarian problems.

Mr. President, General Vessey visited Vietnam last August, and after the initial wave of optimism surrounding his mission, the very familiar pattern of infrequent, lower level meetings snarled by tremendous logistical problems, has returned again. Let me cite but just one such problem, and that is the American technical person trying to work out these problems must commute from Bangkok, Thailand, for every meeting and return after such meeting.

I might also add that I brought back the information from my trip to Hanoi a year ago last January to the effect that other embassies, such as our friends from Australia, indicated that they would be very happy to facilitate those hearings and to diminish the problems of logistics by considering the possibility of our technical person to live in their embassy so it would not even take us down the road of even having to identify any formal relationship by getting our technical person housed in independent housing.

In a nutshell, it appears the Vessey mission has broken down, and I quickly add, through no fault of General Vessey, who is a very honorable and a very outstanding leader.

So today I rise with the simple question: why in the world, 15 years after we left the region, are we continuing a policy of the bare minimum, of the least possible, of the most improbable, with respect to the Government of Vietnam and the resolution of MIA-POW issue and other humanitarian matters? We self-impose logistical restraints, we make followup to the infrequent top-level meetings between our two governments so difficult, and so dependent on the perspectives of the precious few upon whom we rely for their interpretation of these meetings, and then we act shocked when misunderstanding ensues and mistrust develops further.

I went to Hanoi in 1987 and so I have no illusions about the Government of Vietnam. It is a Communist government and it is dedicated to pursuing its own agenda and its own interests. But if the United States treated every Communist government the way it treats Vietnam, we would be redefining the term "isolationist." Our policy of isolating Vietnam has only isolated ourselves. It has left us bound and gagged while the question of the resolution of Cambodia is brokered by China and the Soviet Union. We have become a guilty bystander while China arms the Khmer Rouge and legitimizes Pol Pot and shamelessly curries favor with Thailand and all of the ASEAN countries. And most of all, our policy has meant for the families of our missing in action that their ago-

nizing wait for an answer must linger further because of the aforementioned structural problems in current negotiations with the Vietnamese.

Mr. President, three Sundays ago, in the Washington Post, Frederick Downs wrote an op-ed piece which I believe is the singlemost persuasive and articulate presentation of the dilemma facing the United States in its relationship with Vietnam. He is a veteran who lost a limb and nearly his life in the war, and if ever there were an individual who could justifiably argue against any improvement in relations with Vietnam, it would be Frederick Downs.

But something happened. He went to Hanoi and saw what had happened to the country in the two decades since his departure. His observations of modern Hanoi were identical to mine when I visited Hanoi for the first time since my time with the Navy there in 1945. He saw the terrible poverty and the victimization of the powerless civilians. It seemed to me Hanoi hadn't seen a new coat of paint since my last visit. I ask unanimous consent that Mr. Downs' article and one from the New York Times appear in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. HATFIELD. Mr. President, there may be some who believe that the question of the future of United States-Vietnamese relations can be tabled for the next administration to decide. I am not one of those. Such a policy would contribute to the suffering of the innocent victims of the Vietnam war's ugly aftermath: the families of MIA-POW's in America who deserve more frequent, higher level contact between our two governments; the reeducation camp inmates; the refugees in the region's camps; the Amerasian children and the other American families broken in two by separation; and the Vietnamese civilians who have been singled out from the world's population as a people to whom the United States turns a deaf ear to their cries of hunger and despair.

Last year Congress remained silent on the question of United States-Vietnamese relations. Many of us felt that it would be imprudent for the Senate to interfere with General Vessey's incipient diplomatic efforts. It is my strong belief that the Senate now should consider adopting a posture on the question of United States-Vietnam relations similar to that seen in this Chamber on the question of Central America or other areas where United States interests are at stake—a posture of open debate.

I believe the United States Senate should take a vote this year, up or down, on the question of whether the United States should support any regional initiative which includes the murderous Khmer Rouge and Pol Pot in a Cambodia resolution strategy. Let's face it: the Khmer Rouge are alive and well today because the United States has not seen fit to pressure China to do what should have been done immediately after the news of the killing fields reached the civilized world—place Pol Pot in the history books next to Adolf Hitler.

Second, the United States Senate should vote on whether we believe the current stalemate in United States-Vietnam relations is serving the interest of the families of the MIA's in America and our much broader foreign policy interest in Southeast Asia.

The United States Senate should vote on what the speed limit should be on the "two-way traffic" arrangement that General Vessey and the Vietnamese leadership have characterized as the current relationship. Right now things are moving at a snail's pace. This matter cannot wait until next year.

I am not advocating a full diplomatic relationship with Vietnam. No, I am not advocating that. Until the MIA-POW issue and Cambodia are dealt with, that step should be premature, but there are many intermediate steps which would further United States interests, help United States families, and assist Thailand as it bears the weight of a decade of refugee migrations.

Until these steps are taken, the United States will continue to apply patches to the predictable and periodic ruptures that burst in the refugee camps and in our relationship with our strategic and loyal friend in the region, Thailand.

EXHIBIT 1

VIETNAM: MY ENEMY, MY BROTHER

(By Frederick Downs, Jr.)

Twenty years ago this month, in Tam Key, Vietnam, I stepped on a land mine. It was a type we called a "Bouncing Betty," because when you stepped on it, it bounded into the air and exploded waist-high, so that it would do maximum damage. My left arm was blown off; grievous damage was also done to my right arm, both buttocks, both legs and both feet. Five of the men in my platoon were wounded along with me.

Within a four-week period after that, my platoon—already reduced from 40 men to 27—was destroyed. All but seven of those remaining 27 were killed or wounded, and the platoon, Delta 1-6, my family and my responsibility, ceased to exist as a fighting unit. I had given my all to Vietnam. I was proud to have been an infantryman. I was proud of my men. I wept when South Vietnam fell.

So I had good reason to be carrying a lot of hate when I returned to Vietman for the first time last August, as part of a team sent by President Reagan to explore greater cooperation with Vietnam on a range of humanitarian issues. The leader of our group was retired Gen. John W. Vessey, Jr., a former chairman of the Joint Chiefs of Staff. I was included because I am head of prosthetic services for the Veterans Administration. My job was to study the needs of disabled Vietnamese and see how we could help, particularly in the area of prosthetics. It was a trip that changed the way I think about Vietnam—and maybe about America, too.

We let down through a clear sunny sky. Hanoi was off to the left. As we descended, we could see "Uncle Sam's Duck Ponds," our slang for bomb craters, scattered across the landscape. I was surprised at the large number and by the fact that they hadn't been filled in so many years later. Some were spaced haphazardously, others in neat rows spread from the American aircraft that had dropped the bombs 15 or more years ago.

Flying into Hanoi was a confusing experience for me. When I first got off the airplane and stood on the tarmac, I was surprised and slightly embarrassed to realize that my knees were weak and my hands were trembling. The adrenalin was pumping through my body and I felt the way I had long ago as I waited for the helicopters to take us into battle.

I could not suppress the feeling that I was in enemy territory. The shock of this after two decades was strange and unexpected. "What the hell am I doing here?" I asked myself. I had lost my arm fighting against Hanoi! In the years since, I had stayed angry at the Hanoi government for a number of reasons: their mistreatment of the South Vietnamese, their meanness on the POW/MIA issue, their arrogance and intractability on everything to do with America, and the simple fact that they had won the war.

And yet, driving from the airport into Hanoi, that hard edge of hatred seemed to soften. So little had changed in this land in 20 years. The women wore the same black pajamas and conical hats; bicycles still clogged the roads; water buffalos toiled in the rice paddies; fish traps stood at every drainage point in the fields and ditches; children played alongside the road; adults squatted in the doorways of their dwellings.

Here and there along the road, I could see cemeteries, graveyards for the soldiers who died in the war with America, each tombstone bearing a large red star.

We crossed the Red River on the bridge next to the one so frequently bombed during the war. It had taken 20 years but we were finally in the city limits of Hanoi. The city looked poor but reasonably neat. It could be called shabby. Streets, curbs, sidewalks and buildings are in need of repair. None of the buildings was taller than the trees. In the tropical heat and humidity, the entire city looked faded. But it takes money to keep paint looking good, and this is a desperately poor country. According to the United Nations, Vietnam ranks 162nd out of 164 countries in the world in per-capita income.

What I saw over the next few days turned my thinking about Vietnam upside down. We checked into the government guest house and were allowed to go where we wanted in the city. What happened to me, to put it in the simplest terms, was that I began to see the Vietnamese as a people.

My impressions of Hanoi were of an impoverished city, one drained of all resources by 50 years of war. A city too poor even to generate much trash. The North Vietnamese had finally won their war, but at the expense of consuming practically everything they had. A true Pyrrhic victory! Their problems were compounded by an economic policy which for the last 15 years was, by their own admission, a dismal failure.

The signs of poverty were everywhere. Women stood in line to buy a single smear of lipstick; street vendors used hypodermic needles to refill ballpoint pens; fixing flats was a constant activity on the streets. There was very little soap in the country (which perhaps accounts for the gray drabness of the clothing). Cigarettes were sold one at a time. Practically no one had a watch, so they all seemed to depend on the big clock on the main post office for telling time. What a sound it made. Not a bell but a gong.

We often walked in the park observing the people and in turn being observed by them. The kids were fascinated by my hook. They gathered around us, their faces full of curiosity and wonderment. They followed along for a short distance until their parents called. I was fascinated by the number of fathers who had their children on outings or spins around the lake. I did not expect to see this from hard-core Vietnamese. Maybe I hadn't imagined that these men I had hated for so long could love their children. That is what war does to us: It prevents us from seeing our enemies as human beings. But there was a great deal of love and pride evident in the faces of these Vietnamese fathers.

I walked over to the lake to see what the water looked like. I had watched a father squat by the edge and cool himself and his child with water be scooped up in his hands, and I was curious whether the water was clean. It was filthy; cloudy with the look of sewage and run-off from the gutters. I learned later that malaria and other infectious diseases are rampant throughout Vietnam. And I thought: The Vietnamese, my old enemies, suffer the afflictions that plague so much of the world—polio, typhoid, diarrhea, the whole host of microorganisms that inflict mankind.

Because the Vietnamese are so poor, they lack the medicine to combat disease and infection. In one operating room we observed a 7-year-old girl with polio being prepared for surgery. There was no disinfectant on her skin or in the operating room and there were no antibiotics. The infection rate in the operating rooms was over 50 percent, we were told. To put this in perspective, the international standard which countries try to achieve is 3 percent. And I thought: This Vietnamese girl's mother and father don't love their child any less than I love my own two daughters.

One night I walked into a cafe with Bill Bell, a colleague who speaks Vietnamese and has been coming to Vietnam since 1973 as part of the official team that has been trying recover POWs and MIAs. A group of about 15 older men were sitting around a couple of tables. They stopped talking immediately when we entered and watched us suspiciously as we walked to the bar. "Old cadre," remarked Bill, as we leaned against the teak bar.

Bill told me about one old veteran he had met a few years ago who related his travel along the Ho Chi Minh trail. During one trip while driving a truck full of supplies, he had been strafed by American planes three times. Each time the bullets punctured his tires. He did not have any patching material so he improvised by hunting round the jungle and killing frogs. He skinned the frogs and used the hide to patch the tires.

Bill told me other stories: of editorials in the Hanoi newspapers raising hell with the government for not living up to the promise made to its veterans. The Vietnamese vets were complaining that they were not getting prosthetic limbs to replace the real arms and legs they had lost while fighting for their country. And younger veterans were complaining that the older veterans had all the good jobs.

I knew exactly what those Vietnamese vets were talking about. Certain problems are universal in nature, and veterans of any country voice much the same type of complaints. And I realized that I was beginning to feel a sense of kinship for their problems.

The odd thing was, the people I met seemed to genuinely like us, too. When we were out walking, they usually assumed we were Russian, since there are plenty of Russians around, and they seemed wary of us. But when they learned that we were Americans, their coldness turned to friendliness and curiosity. Maybe it's that we all share the same horrific experience of the Vietnam War.

This sense of kinship bothered me, to be honest, I had spent 20 years thinking of the North Vietnamese as the murderous ghouls who degraded our dead soldiers by holding them as ransom. Like my fellow Vietnam Vets, I believed that they received some perverse pleasure from torturing the unfortunate families of gallant American men lost in battle. I hated the Vietnamese and believed they hated Americans just as much.

But here I was in the middle of Hanoi releating to these people as human beings—discovering that I did not hate them as people. What was even more unsettling was that these people did not seem to hate us. As I walked around the lake in the evening or in the hot humid noonday sun watching the busy streets full of Vietnamese I felt a sense of freedom. Not politically but spiritually. I was actually enjoying myself for the most bizarre of reasons: I was taking a walk in Vietnam and I wasn't on guard for my life.

As a soldier in Vietnam 20 years ago, I had always wanted to be able to take a walk, to go for a stroll and look around without having to worry about getting shot or blown up by the Vietnamese. Now here I was in the middle of Hanoi, among friendly people, having a good time. I could relax. The war was over.

One evening, the Vietnamese delegation hosted a dinner for us. At the dinner I spoke to a Vietnamese official. He represented to me the quintessential North Vietnamese. He had been a prisoner of war under the Japanese, he had been shot in the stomach in 1952 while he was a Vietminh fighting the French and he was in charge of "Clandestine Affairs in Urban Areas" in the fight against the Americans. His brother was killed in a B52 raid in 1972. Surely this man would hate me.

As we relaxed and conversed in comfortable surroundings I thought to myself that my dinner companion was no pilgrim. He was a hardcore soldier who had been fighting for his country's freedom from foreign domination all his life. Whether I agreed with his political philosophy or his definition of freedom or not, I respected the man for his determination and sacrifice. He had fought hard because he had wanted his countrymen to have a better life.

So I began to ask myself: Who will help these people achieve the goals they fought for so long and hard? Certainly not the Soviets. We saw nothing—in any area of civilian life—that the Russians have done to help the people of Vietnam achieve that better life. The North Vietnamese know they need help from someone. What country is rich enough to help them? And what country, in their eyes, owes them that help?

For years I have been reading about Vietnamese claims that we owe them war damages for what we did to them. I thought they had it backwards; my concern had been with the damage Vietnam had inflicted on America—the dead and wounded, the POWs and MIAs and the psychological damage inflicted on literally millions of other Americans. I didn't pay much attention to their demands for help.

Americans are a generous people. When we finish our wars, we usually try to help the other side back on its feet, no matter how many casualties we suffered or how hateful our adversaries. We helped create the modern economic miracles of Japan and Germany. But for Vietnam, we have done nothing. And if we're honest, we know why. It is because they won the war, and we still hate them for it.

When we left Vietnam, our delegation recommended that humanitarian aid be provided to Vietnam by non-governmental organizations. As medical experts, we knew this was the right thing to do because the medical needs are enormous. We did not like the politics of Vietnam but we liked the people. I came to believe that they deserved the assistance of the people of America. There will always be differences between our two countries, but there is a lot of common ground to work with.

Let me put it another way: Twenty years ago, when I lost my arm in Tam Key, I thought that I was fighting for the people of Vietnam. Today, although the government in Hanoi is not what I would like, the people still need our help. The North Vietnamese we fought and the South Vietnamese who were our allies are all under one government now. There are hundreds of thousands of our former friends and enemies who were left disabled by that war. They all share a common plight now. Do we leave these people handicapped with no hope for rehabilitation, no hope of recovering either physically or economically? Or should we try to help them?

Any soldier who has been in combat knows that there comes a time after the battle, when the smoke has blown away and the dust has settled, when you must lean down and give your foe a hand. For in that moment of generosity, the war is truly over.

Cruel, and Needless, Choice of Refugees

Thailand's patience has snapped. After years of receiving refugees from Communist neighbors, it is now experiencing an unexpectedly large new flow from Vietnam. Officials and deputized fishermen are pushing the boats full of newcomers back to sea. More than 100 refugees have died—and now the U.S. State Department is considering an idea that would make the tragedy even worse.

The State Department now anticipates that Mikhail Gorbachev's policies will bring an upsurge in Jewish and Armenian refugees from the Soviet Union. Since the number of refugees routinely admissible to this country is limited by law, the department is thinking of reallocating some of the slots scheduled for Southeast Asian refugees, among others, to accommodate the expected Soviet refugees. It's a cruel choice, and an unnecessary one.

Thailand has for a dozen years provided first asylum to hundreds of thousands from Laos, Cambodia and Vietnam. It has grown increasingly impatient with other nations' lack of commitment to their part of the bargain: to provide final resettlement. Now the

Thais say they will take no more Vietnamese until the total of more than 12,000 already in the camp that receives Vietnamese is reduced by resettlement. Public passions in Thailand are rising against the refugee influx.

This year, the United States has agreed to admit 29,500 Southeast Asians. More than ever, Washington needs to show its commitment to upholding its end of this bargain. Yet State is pondering the opposite policy instead, cutting the number of slots for Asian refugees to make room for Soviet refugees.

There's no need to choose. The Refugee Act of 1980 provides that in "an unforeseen emergency refugee situation" the limits for various refugee categories can be changed. With Vietnamese dying off Thailand's shores and Soviet refugees increasing, this is plainly an emergency.

If the number of slots available to Soviet refugees were simply increased rather than taken from other regions, the total would grow by no more than 15,000. Compare that with the 68,500 refugees the U.S. has agreed to take this year, and the half-million legal immigrants. The numbers are hardly overwhelming.

Two important humanitarian concerns are involved here; both can be met at one.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATORIAL ELECTION CAMPAIGN ACT

Mr. BYRD. Mr. President, has the unfinished business been laid before the Senate?

The PRESIDING OFFICER. It has not. The clerk will report the unfinished business.

The legislative clerk read as follows:

A bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Boren motion to recommit the bill, with instructions to report back forthwith, with Boren amendment No. 1403, in the nature of a substitute as modified.

Byrd amendment No. 1404 (to amendment No. 1403), of a perfecting nature, as modified.

Boren amendment No. 1405 (to amendment No. 1404), of a perfecting nature, as modified.

Mr. BYRD. Mr. President, I know of no matter that is more important to the integrity of this institution or the integrity of our political and electoral process than the matter of campaign financing reform.

I shall cite some examples of abuses in campaign financing. These are taken from press accounts. As to bundling, the Wall Street Journal on October 24, 1986, said:

BUNDLING: The Wall Street Journal (Oct,. 24, 86) GOP Panel's Bypass of Federal Aid Cap Totals $6.6 Million for Senatorial Races

A new tally shows the National Republican Senatorial committee has quitely funneled nearly $6.6 million extra into coffers of GOP Senate candidates, using a technique that effectively nullifies federal limits on financial aid parties may provide. Big Bundle—Contributions funneled to Republican Senate candidates by National Republican Senatorial Committee through "bundling.": Total (all candidates) $6,599,855.

A quotation from the New York Times on October 10, 1985, on the subject the independent expenditures:

Californian Spent $1.1 Million on Illinois Race [headline]. Michael R. Goland, the largest independent spender in the history of elections, according to new Federal Election Commission figures, is a publicity-shy California entrepreneur. He spend $1.1 million last year in a personal campaign, not organized or coordinated with any candidate, to bring about the defeat of Senator Charles H. Percy of Illinois.

One the subject of PAC's the New York Times under date of August 4, 1987, had this to say:

PAC's Aided Legislators on Banking Panels [headline]. Members of the banking committees that drafted legislation now before Congress to aid the savings and loan industry received nearly $3.5 million in 1985 and 1986 from political action committees with a direct stake in the legislation.

Again on the subject of PAC's quoting from hearings on campaign finance reform, the Committee on Rules and Administration, November 5, 1985, testimony of Philip Stern, former assistant to Senator Paul Douglas, founder of the Center for Public Financing of Elections in 1973:

A decade ago, only 28 percent of House winners relied no PAC's for a third of their campaign money. Ten years later, that figure had leaped to 82 percent. * * * In 1984, the PACs gave nearly six and a half million dollars to incumbent representatives who had no general-election opponent.

That was more than three times what they had given to unopposed candidates just four years earlier.

On the subject of campaign spending, from the campaign finance reform hearings, Committee on Rules and Administration, January 22, 1986, testimony of Mark Green, President, Democracy Project:

"If you take inflation into account, campaign spending has increased only 20 percent or so in the last five years." So wrote Rebert Samualson in a review panning Elizabeth Drew's book in The New Republic. Actually campaign spending has skyrocketed. Between 1972 and 1982, while the Consumer Price Index doubled, spending for House races increased 450 percent and for Senate races, 500 percent. In 1972 the average first-term representative spent less than $100,000; in 1982, about $300,000.

On the subject of PAC's campaign financing in Federal elections, a guide to the law and its operations by Joseph E. Cantor, specialist in American Government in the Congressional Research Service of the Library of Congress, August 8, 1986, revised July 20, 1987:

Number of Registered Political Action Committee [has grown from] 608 [in] 1974 [to] 4157 [in] 1986. * * * Financial Activity of Political Action Committees, 1972-1986: Contributions to congressional candidates: $8,500,000 [in] 1972 [growing to] $132,179,611 [in] 1986. * * * PAC Contributions as a Percentage of Congressional Candidates' Overall Receipts in General Elections: 1972-1986: Percent Given by PACs: 13.7% [in] 1972 [growing to] 31.3% [in] 1986.

On the subject of campaign expenditures by Joseph E. Cantor in Campaign Financing in Federal elections, A Guide to the Law and its Operations—he is a specialist in American national government in the Congressional Research Service of the Library of Congress—"Total Campaign Expenditures in House and Senate Elections: 1972 through 1986, $77.3 million in 1972 growing to $450 million in 1986."

Mr. President, there are some very important and interesting additional facts that I would like to state for the record concerning the need for campaign financing reform legislation. And I have consistently maintained, so has Senator BOREN and others on this side of the aisle, that unless there is an overall limitation on campaign expenditures, unless there is an effective mechanism to enforce that limitation on campaign expenditures, and unless there is a limitation on the aggregate PAC contributions which may be received by any candidate there can be no genuine campaign financing reform.

Now, as to the rising cost of congressional elections, Will Rogers once remarked "Politics has got so expensive that it takes a lot of money even to get beat." It was about that time that Franklin Roosevelt spent $2.2 million to win his first Presidential election.

In 1986, losing Senate candidates spent an average of $2.3 million each. In other words, it now takes more money to lose a statewide Senatorial election than it did to win a national election just 50 years ago.

Consider the extent of the increase in campaign spending. Total senatorial campaign expenditures in congressional elections from 1972 to 1986, in 1972, the total campaign expenditures in senatorial elections were $30.7 million. By 1986, they had risen to $211 million; in other words, a 700 percent increase, or a little less than 700. In other words, in 1986 Senate campaigns cost $211 million, seven times as much as the 1972 senatorial elections of about $31 million. All this data comes

from the Congressional Research Service.

Mr. President, the average campaign expenditure by Senate candidates rose from $437,000 in 1974 to $2.6 million in 1986. In 1984, the five costliest elections, Senate candidates spent $7.74 per vote, and in the five most costly elections in 1974, 10 years before, they spent 67 cents a vote. So in other words, between 1974 and 1984, the average amount of money spent per vote by Senate candidates increased from 67 cents a vote to $7.74 a vote. Some political scientists believe that data for the winning candidates provide the truest gauge of the level of funding needed for congressional races—that is, what it costs to win a Senate seat.

The average campaign expenditure by winning Senate candidates in 1976 was $609,000. In 1986, it was $3,099,000.

In 1986, losing Senate candidates spent an average of $2.3 million. In 1986, the winning Senate candidates spent an average of $3.01 million on their election campaigns.

The February 1987 issue of Conservative Digest reported, and I quote, "According to current projections when the new class—get this—when the new class of Senate freshmen runs for reelection in 1992 * * * "—see, the last class that has come to the Senate was in 1986. When the new class, when that class runs for reelection in 1992, get this: " * * * the average Senate campaign will cost $9 million". It was an average in 1986 of $3 million. But when those same candidates, those same Senators who were elected in 1986 run for reelection 6 years later in 1992, the average is not going to be $3 million. It is going to be $9 million. Now, how is that for an increase in the amount of money needed to run a successful campaign for reelection to the United States Senate?

That means that during the 6 years, these individuals who are in the Senate will have to raise $125,000 every month for their next election. They will have to raise $28,846 every week. They will have to raise $4,109 per day, Saturdays and Sundays included. That boils down to $171 per hour of every day, 24 hours a day, 7 days a week, for 6 years straight. How are they going to have the time to do anything else?

From where does the money come for these campaigns? More and more of it is coming from political action committees, PAC's. Since 1974, there has been nearly a 600 percent increase in the number of PAC's—as I have already indicated, from 608 PAC's to 4,211.

PAC contributions to congressional elections in 1986 were over 1,000 percent higher than in 1974, 12 years before; and they were 1,500 percent higher than in 1972, 14 years before.

In 1986, PAC's contributed 27 percent of what winning Senate candidates collected. In 1976, it was 15 percent. This comes from the Augusta, Maine, Kennebec Journal, February 9, 1987.

Furthermore, PAC giving has outpaced the overall increases in candidate receipts and spending. In 1972, PAC's contributed 13.7 percent of what Senate and House candidates collected. In 1986, PAC's contributed 31 percent of what Senate and House candidates collected. In 1986, the top three PAC's contributed $2.8 million, $2.1 million, and $2.1 million respectively, to Federal candidates. Indeed, the top 10 PAC's all contributed more than $1.3 million each to Federal candidates in 1986, with an average contribution of more than $1.7 million, according to FEC records.

The combination of spending limitations and public financing in Federal elections is not a novel idea. For 12 years, such a system has operated with great success in our Presidential elections. An incredible rate of expenditures in Presidential campaigns has been stemmed. In 1972, when there were no spending limits, President Nixon financially overwhelmed his opponent by spending $62 million. Adjusted for inflation, a comparable amount in 1984 would have been more than $150 million. But with spending limits and public financing, President Reagan spent $68 million—in other words, just $6 million more than Mr. Nixon had spent 12 years before. President Reagan's expenditure of $68 million in 1984 represented a 10-percent increase in 12 years. During that time, the cost of congressional campaigns rose 485 percent.

The law limiting spending and public financing for presidential campaigns has been so successful that 34 out of the 35 candidates for the presidency since the law went into effect have participated in the public financing system. In the 1988 elections, this year, all the major candidates of the Republican and Democratic Parties have accepted spending limits and public financing—all of them. President Reagan accepted public financing in the 1976, 1980, 1984 Presidential campaigns.

The spending limits and public financing of Presidential elections has made elections more competitive as well as less subject to abuses. This system of financing has not proved to be an incumbent's protection plan. In two out of the three Presidential elections under public financing, the challengers have defeated incumbents. In 1976, a challenger defeated a Republican incumbent for President. In 1980, a challenger defeated a Democratic incumbent for President. In 1984, a Republican incumbent won.

Mr. President, it is interesting to note in the February 14 edition of the Charleston, WV, Gazette an article by a Richard L. Burke, New York Times Service. Here is the headline: "PAC's Found Resentful of Greedy Lawmakers." Let me read just a little from that article, headlined Washington:

Political action committees say they are increasingly resentful of greedy lawmakers, and yet they go along on their demands for contributions, for fear of losing vital access to Congress.

This is the PAC's talking.

This bitterness repeatedly comes to the surface in a new study based on extensive interviews last year with officials of 50 political action committees that represent business, labor, trade and ideological groups. The study, to be made public within the next few days, was conducted by the Center for Responsive Politics, a bipartisan organization that examines political trends. It is the first detailed examination of attitudes among PAC directors and lobbyists working for them.

Although the study did not make specific recommendations for changes in the relationship between political action committees and legislators, it concluded: "Underlying our interviews was an undercurrent of fear, anger and frustration at the way the congressional campaign finance system operates."

In the interviews, the directors of the political action committees recounted how legislators keep black books that listed their contributors; how the lawmakers were offended when PAC representatives did not attend their fund-raising events, and how the committees were constantly badgered by members or their aides for contributions.

The 65-page report, titled "PACs on PACs: The View from the Inside," is filled with quotations from officials of large and small political action committees, all of whom consented to interviews with the center on the condition that they not be identified.

The PAC directors sought to debunk the notion that officials of the committees enjoy the neverending stream of Washington fund-raising meals and cocktail parties for which members of Congress serve as hosts. Many said they felt they had no choice but to attend.

"They're a real hassle for me," one PAC official said of the fundraisers, "The reception breakfast circuit is backbreaking. They're bad on your cholesterol level and everything else. Some of the receptions are five, six or seven a night and it's impossible to make them all. Then you just end up sticking your head in and out, hoping the member is there when you are."

Mr. President, the bill before the Senate will cure all that, and the American people should rise up and demand that the Senate act on this legislation.

They will do that. Whether they will do it this year or not, I cannot say. But, sooner or later, they are going to do that.

The framers of the Constitution provided that the Members of the Senate should be elected by the members of the State legislatures. That became a widely perceived mechanism as being flawed and as leading to corruption. It continued to be the mode for selection of Senators until 1913. A resolution was introduced in the House of Repre-

sentatives as early as 1826 providing for popular election of Senators, and in the late 1800's the people of this country began petitioning the House of Representatives to pass resolutions to provide for the popular election of Senators. The House, between 1893 and 1902, passed several of these resolutions, but they got nowhere in the Senate.

I think it was about 1887 the first time that a Senator attacked the mode of election of Senators, and he was Charles Van Wyck, of Nebraska.

William Randolph Hearst became a Member of the House of Representatives in 1903. He took on this issue. He bought Cosmopolitan Magazine and, with his large chain of newspapers and Cosmopolitan, he made it a goal to attack the then system of misconduct and corruption at the State level where State legislatures elected the Senators who would serve. And so the Senators were the pawns of large corporations, investment companies, so on and so on and so on, William Randolph Hearst attacked that system.

But it was 1913 before the constitutional amendment was adopted, the 17th amendment. The State of Connecticut was the State that finally made the three-fourths of the States necessary to ratify a constitutional amendment. In April 1913, the State of Connecticut ratified that amendment. On May 31, 1913, William Jennings Bryan, Secretary of State, certified that the amendment was a part of the Constitution, so that the people finally became directly involved in the election of their Senators.

So since 1913, for 75 years now, the people of the country have been the electors; not through some indirect process as the framers originally established, but the people became directly involved. It was a great victory for the people, this amendment providing for the popular election of Senators.

And now we are witnessing a system under which the same cloud of corruption hangs over this Chamber and the other Chamber, the House of Representatives, by virtue of the campaign financing system under which we operate.

The large contributions that Senators are receiving from PAC's are not illegal. What is being done here is not illegal. It is legal. We are playing by the rules, and those of us who want to continue in public service have no alternative but to raise money to be able to compete with opponents who will raise money and with negative advertising that will be carried on by independent organizations that come in the States, just as NCPAC came into my State of West Virginia in 1982 and spent $270,168 spreading negative, distortive, unfair disinformation and misinformation about my voting record.

So this is the system. It is corruptive. It has all of the aspects of being corruptive. The American people have to perceive it as a system in which the special interests have the advantage.

And so I ask the question: Is this Senate the cornerstone of the Republic, or is it the fortified castle of the special interests? Is it the chief protector of the people in this Republic, or is it becoming the chief menace to the interests of the American people?

So the question becomes very important: How do men and women come to membership in this overpowering body—a body that has powers that go beyond the legislative powers; powers that are executive, judicial, investigative as well as legislative; this powerful body which under the Constitution has what one might say is an equal part with the President in the making of nominations and in the making of treaties—by what method do men and women become members of this overpowering body? That is the question. And even though they are elected, the method of election is popular election, that method of election is undermined unless it is the people who are fully cognizant, fully vigilant and fully able to exercise their collective views in the selection of Members of this body; whereas, once upon a time the people indirectly elected the Senators and whereas, for many, many years special interest groups in the State legislatures dictated the selection of Senators to this body.

Everyone thought that by the adoption of the 17th amendment in 1913 those dangers were put aside and past. And yet today, more and more and more special interests again are influencing beyond their numbers the selection of the Members of this body.

Mr. President, this is an idea that is not going to perish. It is an idea that is not going to die, because too much is at stake.

The integrity of this institution is at stake. The integrity of the electoral and political process is at stake. The integrity of representative democracy is at stake. And the integrity of the people's choice, the people's choice in the selection of Senators, is at stake.

Sooner or later, the William Randolph Hearsts of this country—going back to the early 1900's in my reference—the editorial writers of this country, commentators, the columnists, the media, are going to arouse the people to the danger to the institution of representative democracy.

It is happening right under the noses of people and they need to be awakened to it and we, who are supporting this bill, are doing everything that we know how to awaken the people.

I hope the people can see through the flimsy arguments that are being made against this bill. Campaign financing reform cries out for enactment and until there is a limit on campaign expenditures—and our friends in the Republican caucus say: no—until there is a mechanism to enforce that limitation and until there is a limitation on the aggregate contributions that can be received by any candidate, campaign financing reform will not be genuine.

But our friends in the minority caucus draw the line and they say never; no. They will not agree to any limitation.

Mr. President, I hope that there are those on the other side of the aisle who are our friends who will decide to stand against the conference, if it continues to maintain that position, and in the interests of good government will decide to join those who are proposing and who are dedicated to genuine campaign financing reform. We welcome them and we hope that this year we will take this all important step which is in the interests of good government.

There should not be a "for sale" sign on this place, but the American people are going to believe there is and if we do not do something about it we cannot blame them.

CAMPAIGN FINANCE REFORM

(By request of Mr. SIMPSON, the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, here we go again on campaign finance reform. We're all familiar with the issue by now. As the distinguished assistant Republican leader, Mr. SIMPSON, pointed out recently, the 100th Congress has set a record—the distinguished majority leader has filed seven cloture motions on S. 2. Each of those motions failed, and I am hopeful that, if another cloture motion on this so-called reform bill is made, the eighth will too.

Let's face it. If you attach the word "reform" to anything it sounds good; it looks good; it even feels good. But, attaching "reform" to S. 2 won't hide the fact that this bill is anything but reform. It is unfair and unbalanced.

RESPONSE TO THE CRITICS

I have been criticized by some special interests, including Common Cause, for not caving in to their demands that I support S. 2. Let me set the record straight.

Now, the special interests suggests that in opposing S. 2, Republicans are acting as obstructionists—that we are acting as critics rather than participants in the process: but that's just not truth in advertising. Look at the record: Campaign finance reform began in earnest with the introduction of the Boren-Goldwater bill in 1986, when I was the majority leader. The bill introduced at that time had something that S. 2 doesn't have: a balanced, bipartisan approach.

In the words of Archibald Cox and Fred Wertheimer, chairman and president of Common Cause, "The Boren-Goldwater bill [had] * * * garnered support from a wide-ranging, bipartisan group of cosponsors, whose views span ideological and party spectrums and who represent every region of the country."

A CONSTRUCTIVE ALTERNATIVE

On September 9, 1987, a number of my colleagues joined me in introducing the Congressional Campaign Finance Reform Act, S. 1672. This legislation is similar to the Boren-Goldwater bill. In my view, it is a much more balanced effort at reform than S. 2. It attempts to bring the individual back into the political process by limiting PAC contributions and adjusting the limit on individual donations—first imposed in 1972—for inflation.

It requires full disclosure of so-called soft money expenditures through which corporations, labor unions, and nonprofit organizations may influence the outcome of Federal elections. It attempts to close the millionaire loophole so that wealthy individuals will not have such a tremendous advantage in financing their own campaigns, and, most importantly, it keeps the door open for all challengers in all congressional elections, House and Senate.

In addition, S. 1672 provides for future reform under the auspices of a bipartisan commission which would make periodic recommendations to Congress based on their own study and the recommendations of the Federal Election Commission.

S. 2—IS THIS REALLY REFORM?

Mr. President, everyone will agree that campaign spending is out of hand. But, in my view, S. 2 goes about solving the problem the wrong way.

TAXPAYER FINANCING

Under S. 2, it is the taxpayer who shoulders the burden of this so-called reform. The American people are not demanding that we increase their taxes or increase the deficit just to pay for political campaigns. They are demanding a voice in the political process.

As I have stated, the original campaign finance reform bill was a bipartisan proposal introduced by Senator Barry Goldwater and Senator BOREN. But, as soon as taxpayer financing was added to the bill, Senator Goldwater pulled his name off the bill. He said, "One of the surest ways I know to raise havoc with our election system, Federal or local, would be to have the Federal Government finance part, or all, of campaigns." I think Barry has raised a valid point.

SPENDING LIMITS—EFFECT VERSUS INTENT

On the surface, spending limits sound like a good idea. I do not question the intentions of S. 2's sponsors. But, as a legislator, I have a responsibility to examine the effects that spending limits might have on the electoral process. In my mind, a number of problems arise.

You might as well call S. 2 the incumbent protection act. Pass this bill and you can tell the competition to stay off the field.

Members of Congress already enjoy advantages such as franking, free media, and professional staff, which, conservatively, are worth $200,000 per year. Most also enjoy relatively high name recognition within their home States. One study estimated that a challenger in an average Senate race would have to spend almost $300,000 just to neutralize his opponent's name recognition.

In disallowing any effort to offset these advantages, S. 2 would make it even more difficult for a challenger to win a Senate seat.

Let's face facts: The Democrats enjoy the privilege of having a majority in both the Senate and the House. It follows that an incumbent protection bill favors the Democrats.

This is one Republican who insists on broadening the party, the Republican Party. But, we are outnumbered in many parts of the country. In the South, for example, registered Democrats outnumber Republicans by a 4-to-1 margin. How in the world are we going to compete—or even hope to get our message out—if we are not allowed to wage an aggressive, fair and square fight.

So, this does become a partisan issue. But, the problems don't stop there. I also believe that if S. 2 were enacted, candidates would focus more of their attention on the big contributors and the PAC's than on their grassroots fundraising efforts. Why? The answer is money.

If S. 2 were enacted, fundraising expenses would count against the overall spending limits for each candidate. Campaigns currently spend somewhere between 22 and 33 percent of their money raising more money. With the limits in place, candidates would naturally focus more of their attention on the big contributors and the PAC's, and less on the average voter.

We are having a hard enough time convincing Americans to participate in the electoral process. Across the country, voter participation is down. In fact, the Federal election commission estimates that it dropped to 36.3 percent in 1986. S. 2 would alienate voters even further. In my view, it is the man on the street, who should ultimately have the influence in the electoral process.

PAC'S

Many of those critical of the current system, including common cause, consider PAC's a corrupting influence. If PAC contributions are corrupting the system then cut their contribution limits directly, as the Republican bill does, or eliminate PAC's altogether, as Senators PACKWOOD and MCCONNELL have suggested.

There is a misconception that S. 2 would cut overall PAC spending; it won't. PAC's will simply shift their emphasis to so-called "independent expenditures" which are not subject to the bill's spending limits.

S. 2 would also effectively increase the influence of specific PAC's by imposing an aggregate limit on PAC spending without reducing individual PAC contributions. Under this system, the best organized PAC's will have even more political clout than under current law. No one has been able to convince me that a $5,000 PAC contribution under S. 2 would have less influence than a $5,000 PAC contribution under current law.

COSTS

As an added incentive for a candidate to abide by the spending limits imposed under S. 2, a postal subsidy with an estimated cost of $70 million per election cycle—House and Senate combined—has been provided. This subsidy would be paid for by the U.S. Postal Service with the likely outcome being increased postal rates.

The Congressional Budget Office has conservatively estimated that 20 percent of all qualified candidates will not opt to comply with S. 2's spending limits. At an average cost to U.S. taxpayers of $20.5 million per Senate race, this legislation could be astronomically expensive. In addition to these costs, the FEC has estimated that its annual administrative costs would increase substantially.

INDIVIDUAL CONTRIBUTIONS

By indexing both the current $1,000 limit on individual contributions and the $5,000 PAC contribution limit, S. 2 fails to make the individual a real participant in the political process. A prominent concern of those supporting campaign finance reform has been that individuals no longer feel that they can make a difference.

Many of those same critics charge that the Republican bill S. 1672, favors the wealthy. They're wrong. The $1,000 contribution limit has been in place since 1972, and it has never been adjusted for inflation. By combining an increase in individual contributions with a reduction in PAC contributions from $5,000 to $3,000, the Republican bill goes much further than S. 2 in giving the individual a meaningful voice in the political process.

PUBLIC FINANCING

A few special interests question my decision to accept public funding for my Presidential campaign when I oppose this provision in S. 2. My answer is simple: I voted against public financing in 1971. But, as a candidate who wants to win this race, I must play by the rules of the game, as they now stand. I will not voluntarily give

my opponents an advantage. As I recall, another Presidential candidate, Senator PAUL SIMON, has said the same thing.

Mailings and advertisements by Common Cause single out PACS as special interest groups which are able to distort and control elections. Why then has Common Cause chosen to endorse a bill which does nothing to reduce the maximum contribution which individual PAC's are allowed to make to each Senate campaign? S. 2 would give PAC's more influence at the expense of the average American.

In recent years, the Democrats have relied more heavily on big contributors and PAC's than the Republicans. The yearend reports on House and Senate campaign fundraising for 1987 will back me up on this. An analysis of these reports supporting this claim was written by Brooks Jackson and appeared in yesterday's Wall Street Journal.

Mr. President, I ask that this article be inserted in the RECORD immediately following my statement.

(See exhibit 1.)

S. 2 also hurts Republicans precisely because it favors large contributors and PAC's. There is a myth out there that the Republican party is the party of the wealthy and the special interests. I have stated repeatedly that the facts disprove this characterization. If you study the year-end reports I just mentioned, you will find that it is the small donors who are at the heart of the Republican Party. We want to keep it that way.

THE PROBLEM WITH CLOTURE

Before closing I would like to discuss one more point: The solid reasoning behind our cloture vote strategy. Many of those who are unfamiliar with Senate proceedings and many of those covering this issue in the press have failed to understand why we have been so adamant in our opposition to cloture.

If cloture is invoked, only amendments which are "germane" to the bill will be in order. Under the Senate rules, I would not be able to offer amendments which would correct many of the flaws I see in S. 2, for example, amendments which lower the individual PAC contribution limits, increase disclosure requirements on "soft money" expenditures or address the "millionaire loophole" in current law would not be considered "germane" under the Senate rules. And that means potential candidates, the Republican candidate and the American people would be the big losers.

CLOSING

In closing, I would like to address the critics. My response is simple: I want reform. But, it has to be fair. I have indicated from the very beginning a willingness to negotiate on this issue, but, unfortunately, we have not been able to reach an agreement so far.

In my view, the Dole bill—"The Congressional Campaign Finance Reform Act"—addresses each of the problems that the critics of the present system have identified. Those who have joined me in cosponsoring this measure have played a constructive role in the legislative process.

We, as legislators, have an obligation to do more than criticize. We must participate, and I think we have. But we also have an obligation to vote responsibly.

For me, the choice is clear. I believe in a two party system, and I am willing to take a little heat to ensure that we have one.

Mr. President, I urge my colleagues on both sides of the aisle to join me in calling for a fair and effective campaign reform bill.

EXHIBIT 1

[From the Wall Street Journal, Feb. 22, 1988]

GOP INCOME FALLS SHARPLY AS REAGAN ERA ENDS; BIG GIVERS, PAC'S SPUR RISE IN DEMOCRATIC GIFTS

(By Brooks Jackson)

WASHINGTON.—Campaign-financed reports show Republican Party income is dropping sharply as the Reagan era draws to a close, reflecting a rapid decline in both large and small gifts.

Democratic contributions meanwhile are rising bullishly, but entirely because of gifts from big donors and special-interest groups. Small gifts to the Democrats are slipping a bit.

The GOP's three main national committees still maintained better than a 3½-to-1 advantage over their Democratic counterparts last year, but that lead was down from the nearly 6-to-1 edge they enjoyed in 1985, the previous non-election year.

Republicans took in $68.5 million during 1987, a 29% decline from the earlier period. The decrease ushered in unaccustomed austerity; the National Republican Congressional Committee, for example, cut its staff by half in 1987, to about 60 people currently. Its rival, the Democratic Congressional Campaign Committee, expanded its staff to 65, making it the larger of the two for the first time.

Democratic committees took in $19.3 million last year, a 20% increase from 1985. But there was a 4% decline in gifts from people giving less than $200 during the year. Gifts from large donors soared 61%, and income from political-action committees rose 33%.

The increased income allowed Democrats to spend $125,000 last year to purchase a microwave link connecting their elaborate television studio here to a commercial ground station. This enabled 43 Democratic House members to feed political commentary back to hometown TV stations via satellite immediately after President Reagan's State of the Union address last month.

AGGRESSIVE OUTREACH

The Democratic congressional committee's chairman, Rep. Beryl Anthony of Arkansas, says more than 50 Democratic House members solicited funds for the committee. Speaker James Wright traveled to fund-raising events in 19 cities last year.

Even so, the committee's income rose mainly because of a 62% increase in PAC donations, which Rep. Anthony said was mostly the result of an "aggressive outreach program" by the committee's former chairman, Tony Coelho of California, in 1986. PACs pay $15,000 a year to join the "Speakers Club," which entitles lobbyists to meet socially with Mr. Wright and other senior House Democrats during the year.

The congressional campaign committee got 30% of its income from PACs last year, up from 20% two years earlier. And as Senate Democrats unsuccessfully tried to pass a bill to limit campaign spending and PAC donations, their own senatorial committee took in more than $1 million from PACs, accounting for 20% of its total. Overall, Democratic Party groups got 18% of their funds from PACs, compared with only 1% for the GOP.

Republicans got 61% from small donors in 1987, a slightly lower percentage than before. Democrats got 45% of their money from small givers, down sharply from 56%. The Democratic Senatorial Campaign Committee more than doubled its income from large donors, who accounted for 56% of its revenue. Many wealthy givers rushed to make donations just before the end of the year, so their gifts wouldn't count against annual limits for 1988. (Federal election law forbids individuals from giving more than $25,000 a year to federal candidates, party committees and PACs.)

Regaining a Senate majority helped Democrats financially. "There are people from the business community who I'm sure are giving more now that we're in control," says Robert Chlopak, executive director of the party's senatorial committee. On the Republican side, falling into minority status demoralized donors and "took the wind out of our sails," says Jann Olsten, executive director of the National Republican Senatorial Committee. Small-donor income plunged 49% in 1987, though Mr. Olsten says it is rebounding now.

NORTH'S COATTAILS

The Iran-Contra hearings also hurt, Mr. Olsten says, by creating a poor political environment for Republicans. Even so, Rep. Guy Vander Jagt, chairman of the GOP congressional committee, capitalized on the brief surge of "Olliemania" following the televised testimony of Lt. Col. Oliver North. He sent a fund-raising letter announcing the committee would make a $50,000 donation to Col. North's legal defense fund. It produced more money from the committee than any letter sent in the previous two years, the congressman says.

Mr. Vander Jagt fears his donors have grown complacent. "People are thinking, the conservative Republicans, that Regan has done it all, he's solved the problems, he's lowered inflation and interest rates and put people back to work," he says. He cheerfully predicts that donors will reopen their checkbooks as campaigns heat up: "Things will get better in 1988."

Meanwhile, to compensate for the decline, Rep. Vander Jagt last September set up a National Advisory Board whose members each pledge to raise $50,000 a year in large gifts. And a spokesman said the GOP senatorial committee recently began a program to increase its income from PACs.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from North Carolina.

SAM J. ERVIN, JR.: A MARKER IS ERECTED TO A STATESMAN WHO LEFT HIS MARK ON HISTORY

Mr. HELMS. Mr. President, as in the morning hour, there was a ceremony in Morganton, NC, back in November that deserves to be noted in the RECORD. On November 8, 1987, an historical marker was dedicated at the birthplace home of our late colleague, the able and distinguished Senator Sam J. Ervin, Jr.

The ceremony was conducted at 517 Lenoir Street in Morganton, the site of Senator Ervin's birth. At that ceremony, meaningful remarks were made by T. Harry Gatton, of Raleigh, who served as assistant to Senator Ervin here and who was the Senator's good friend and confidant.

Mr. Gatton's remarks about Senator Ervin were eloquent—and accurate. Sam Ervin was a statesman. Sam Ervin loved this country with an unyielding fervor. And he believed the U.S. Constitution was the greatest document, as he often put it, "ever conceived by the mind of man."

Mr. President, I ask unanimous consent that Mr. Gatton's tribute to Senator Ervin be printed in the RECORD.

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

SAM J. ERVIN, JR.: THE BROADENING SHADOW OF INTELLECTUAL COMPETENCE

President Katie Snyder, Judge Claude Sitton, ladies and gentlemen:

You deserve much appreciation today for this significant action to designate the birthplace home of U.S. Senator Sam J. Ervin, Jr. by an historical marker. The marker is further evidence of the broadening shadow of his intellectual competence. Moreover, it is very appropriate that this is being done in the Bicentennial Year of the United States Constitution. I am quite certain that Senator Ervin would salute his native Burke County for the work that has been done to observe the Bicentennial.

"The Constitution is the wisest instrument of government the Earth has ever known," he wrote in an article published a month before his death in 1985. "If America," he said, "is to endure as a free republic as ordained by it, Presidents, Supreme Court Justices and other public officers must do what they have sworn to do, that is, support it."

He believed that the Founding Fathers had indeed produced a miracle in Philadelphia. As a youth he memorized the document and used it gingerly and effectively for the rest of his life.

"I love the Constitution and the freedom it enshrines," he wrote in his remarkable autobiography, Preserving the Constitution.

You of his family, friends and neighbors know of his contributions locally. My purpose is to state briefly a sketch of the magnitude of his influence on North Carolina and the nation. It is obvious, of course, that this statesman's life and services cannot be adequately chronicled in a few minutes.

I believe that it was at Chapel Hill in 1913-1917 that men such as William B. Umstead and Albert Coates first gauged the capacity and character of this unusual student from Morganton. Many years later—in 1954—Governor Umstead appointed then Supreme Court Justice Ervin to the Senate of the United States.

Next was his heroism in World War I. On a battlefield in France, seriously wounded, he was believed dead. That lonely night as he lay wounded, he was aware of the cries of another young man, mortally wounded, begging for water. It was a young German—the enemy—and Sam Ervin shared his canteen's contents. Ervin survived, and veterans remembered his valor and his high awards for it.

Graduating from Harvard School of Law, he was elected to the North Carolina House of Representatives, serving in the sessions of 1923, 1925 and 1931. One of his colleagues was the late Willis Smith, who later also became a United States Senator. His colleagues quickly learned that young Ervin was a person who never shirked his duties as a public servant, who prepared for legislative debate, and one who sprinkled his position with wit and humor. His reputation for intellect, honesty and common sense spread across North Carolina.

Governor Clyde R. Hoey appointed Sam Ervin to the Superior Court bench. Holding courts throughout the state, his reputation for wisdom, fairness, wit and judicial temperament became his hallmarks.

And in 1948, when Governor R. Gregg Cherry appointed Judge Ervin to the Supreme Court of North Carolina, the appointment was applauded. At the time, many political leaders suggested that Sam Ervin was the logical candidate for Governor, but he did not seek the office.

His willingness to serve for a brief time in the U.S. House of Representatives, following the tragic death of his brother, demonstrated his standing in the district and his desire not to make service in the House a career.

So it was in 1954 that Sam Ervin went to Washington to begin his long service as a Senator of the United States.

What an impressive record!

His competence and impeccable reputation were quickly recognized. He was selected for some of the most responsible assignments. He was on the Watkins Committee that investigated the McCarthy matter. He argued scholarly and masterfully for his views on constitutional principles for years. He became widely known for his chairmanship of the Watergate Hearings.

Senator Ervin occupies a unique, revered and heroic place in the annals of this state and nation. In our memories we can see him—a tall gentleman in so many ways—physically strong, morally sound, intellectually honest, compassionate and competent. We can remember the warmth of his smile, the sincerity of his greeting, and the capstone of his life, his love for "Miss Margaret," his family and friends.

He missed the 200th birthday of the U.S. Constitution by twenty-nine months, but his role as an honest-to-goodness modern-day Founding Father is clearly established. I have often thought that had Sam Ervin been a delegate to the Constitution Convention, his notes would have been carefully and fully documented.

On September 27, 1896, this fifth child of Sam J. Ervin, Sr. and Laura Powe Ervin was born at this place, 517 Lenoir Street, Morganton. From his earliest years he was fearless in the performance of duty.

After Senator Ervin's death in 1985, the Detroit News published an editorial tribute to him that recites some of his fine characteristics known by so many:

"To folks in North Carolina, he was Senator Sam. To his neighbors in the mountain town of Morganton, he was the Senator or the Judge. And to millions of Americans, Samuel James Ervin was the 'country lawyer'. . . . Of all the people involved with the Watergate scandal, none made a more endearing or indelible impression on America than Senator Sam because he sought no political or financial benefit from the ordeal. . . . Although he spoke with a slow backhills drawl, he knew the constitution and American history better than most of his Senate colleagues. He believed fiercely in the rule of law, and defended it endlessly against the ravages of fad and corruption. . . . He was unpopular in some parts because he was a thinking man . . . and was deeply concerned with preserving the distinctive values that made America prosperous, vigorous and untamed."

The editor concluded:

"Perhaps the finest tribute one can pay is that no one will have to distort history to make Sam Ervin a legend. It's all there in print and on tape. And in years to come, when people survey his works and deeds, they will slap their knees in delight and say, Now that was a life!"

Senator Ervin was a gentle person. He could make a trivial matter blossom with the adornment of his prose and his use of poetry. Fearless in combat and advocacy, he could shed a sympathetic tear for the sorrows of humanity.

In 1958, upon the death of U.S. Senator W. Kerr Scott, he spoke in the Senate: "Mr. President," he said, "I shall indulge at the outset in some reflections rather personal in nature. On an occasion such as this, I am acutely aware of the number of those I have known and loved who have journeyed to the undiscovered country from whose bourn no traveller returns. In the words of Mississippi's poetic son, William Alexander Percy, 'they were the bulwarks, the bright spires, the strong places.' "

The same applied to Senator Ervin. We are all proud to remember him as a son of Burke County, a fellow-North Carolinian and we rejoice that we lived in his day. To have known him is a memory of great value.

As is clear, his intellectual competence is a lengthening and broadening shadow that shows the bigness of the man. I am sure that history will rank him with Vance in popularity and with our most able scholars and judges. He will be remembered for his love of the Constitution and for the freedoms it provides.

Table Rock and the South Mountains proclaim the majesty of Burke. Sam Ervin's life proclaims the majesty of the human spirit.

THE RESIGNATION OF NAVY SECRETARY WEBB

Mr. BENTSEN. Mr. President, it is relatively easy to apportion an expanding budget. Tough decisions are

required, however, when the budget is steady or shrinking.

That is the situation we face now as a nation. Many worthwhile programs and activities by the Federal Government are being subjected to close scrutiny, and even some worthwhile ones are being deferred or canceled.

Throughout my service in the Senate, I have been a strong supporter of national defense. I think that President Carter was right in recognizing the deterioration of readiness in our military strength and starting, in the last 3 years of his term, the current build-up which has also been supported by President Reagan. We have achieved a much stronger defense force as a result.

But now it is time to level off that build-up. We have seen the national debt more than double in the last 8 years, and we are facing enormous budget deficits.

This great country's future can be put at risk either through military conflict or through economic bankruptcy. That is the tightrope that must be walked. It will take a team effort to achieve the right balance.

I do not envy the difficult job confronting Defense Secretary Frank Carlucci. He has to trim the rapid growth planned by the Pentagon to fit within our national consensus on deficit reductions. He has to keep us strong and ready with less money than he, or I, or the Joint Chiefs, or the President would prefer.

I believe that Secretary Carlucci is off to an excellent start. He has accepted the new economic realism and has been willing to work with us to build a strong defense. He has established priorities and has made decisions consistent with those judgments. For example, he has said that America is better off with a "smaller, effective force than a larger, ineffective force."

That is an appropriate decision under the circumstances. We do not want a hollow Army, an unready Air Force, or a Navy tied up at the dock. We want and we need a tough, combat ready force and well-managed programs to give us better weapons in the future.

Secretary Carlucci has demonstrated leadership above and beyond the call of duty. He has clearly enunciated his goals and his constraints, and he has brought his subordinates into line.

Except for one. Except for the Secretary of the Navy, James Webb, who suddenly announced his resignation yesterday.

Secretary Webb told President Reagan, in his letter of resignation, that he was "unable to support—Secretary Carlucci—personally, or to defend this amended budget during budget deliberations."

I am sure that some people will praise Mr. Webb's action as a resignation on principle, as an honorable way to deal with a situation he could not tolerate.

I do not agree. Instead, I see a pattern of conduct by Mr. Webb and his predecessor, John Lehman, which is shortsighted, closeminded, and parochial.

The two Secretaries were ardent advocates for their service and unwilling to subordinate it to our national interest. Both had intense loyalty to their Department, and not to the overall national defense or higher ranking civilian leadership. Secretary Lehman was a loose cannon, undisciplined and unwilling to listen to those who disagreed with him. Defense Secretary Cap Weinberger, unfortunately, chose to let Mr. Lehman march to his own drummer. Both Lehman and Webb prided themselves on a Lone Ranger attitude which I consider irresponsible.

Only a few weeks ago, Mr. Webb alarmed our European allies suggesting withdrawal of some United States forces from Europe in order to concentrate more on naval power. Statements such as that undermined United States foreign policy just at a time when the United States has been boosted by our successful conclusion of the INF Treaty with the Soviet Union.

Mr. Webb reportedly quit because the Defense Secretary rejected his proposal to keep some 16 frigates in the fleet while denying Navy personnel the planned 4.3-percent pay raise. I cannot judge the full range of military consequences of such a choice, but it seems to me that it is better to give our sailors decent pay rather than heedlessly pursuing the arbitrary goal of a 600-ship Navy.

It is the sailors who are separated from their families for multimonth missions in the Persian Gulf or on our nuclear submarines. It they lose faith in our support for them, they will return to civilian life and our Navy will have to rely on less experienced people.

Mr. President, the Navy has been the favored service of this administration. With one exception, 1984, the Navy received more funds than the Army or the Air Force throughout the Reagan years. For fiscal year 1989, however, the President agreed to a 33.2-percent share for the Navy, slightly less than that requested for the Air Force.

One budgetary silver medal does not cripple the Navy. They should not expect a gold one each time. The loss of one round in the never-ending debate over resource allocation should not prompt the team captain to grab the ball and go home.

Admiral Crowe, Chairman of the Joint Chiefs of Staff, obviously would have preferred a larger budget, but he accepted civilian leadership and Presidential guidance and supported the budget. In his congressional testimony last week, he made an eloquent defense of the priorities in that budget.

He said:

> The budget elects a slightly smaller force in order to protect quality throughout and strives to protect our ability to fulfill alliance commitments. Its main priorities * * * are people, readiness, and efficient acquisition.* * * The most precious assets the Services have are people—trained and skilled people. In times of stringency they become even more important, because we traditionally depend on our personnel to compensate for drawdowns.

We can disagree and debate these priorities, but tough choices cannot be ignored or run away from.

Mr. President, I strongly support Mr. Webb's reported successor, Will Ball. He represents a different tradition in public service. He has always been a team player, putting our common goals and national interests ahead of his personal preferences. He also has uncommon leadership skills and a unique appreciation of the way our Government functions, and how to make it work effectively. I am sure that he will be a fine Secretary because he, like Secretary Carlucci, exhibits quiet strength and intelligent toughness.

Those are the qualities the Navy needs, and the Pentagon needs, and our Nation needs if we are to make it safely through this difficult period.

PETER McGUIRE

Mr. KENNEDY. Mr. President, the first session of the 100th Congress was winding down, as a Washington institution died December 11 at age 81 in Fort Lauderdale, FL. He wasn't the Peter McGuire who some claimed founded Labor Day in this country and he wasn't Tip O'Neill or Eddie Patton, of New Jersey, both for whom he was frequently mistaken in this town. He was instead the Peter McGuire who represented the Hotel Employees and Restaurant Employees [HERE], the Transportation, Communications Union, now TCU and formerly called the Brotherhood of Railway and Airline Clerks, and a variety of other labor and retiree organizations.

A large affable Irishman with distinctive growl in his voice he had the advantage of being once met, always remembered. Even after only knowing him briefly all had to be impressed with other qualities. He was the kind of human being for whom the words honesty, decency, and loyalty were invented to describe. He "gave a damm." As a recent article in the January 1988 article of "The Catering Industry Employee" said "Pete believed there still was room in life for compassion and consideration for the little people."

Peter was born in New York City in 1906. He spent most of the last 25 years of his life away from New York,

in Washington representing working people and retired working people. Nevertheless, he remained the quintessential West Side Irishman. He was raised in Manhattan's Hell's Kitchen and he relished explaining to the uninitiated that it was more accurately Held's Kitchen named after Held, the German proprietor of a frequently visited watering hole on the West Side.

Before his move to Washington, DC, he worked intensively with volunteer groups, to preserve the idea among young people that decency was right, and delinquency wrong. To the people in his old neighborhood, he became "Mister Volunteer." Because of this he was subsequently recognized by the West Side Businessman's Association as the Honorary Mayor of Hell's Kitchen.

When Pete graduated from Blessed Sacrament Elementary School on the West Side, he went to work, out of necessity, as an electricians' helper wiring the luxury mansions of uptown Manhattan. Then he joined the fledgling movie industry, and joined the International Alliance of Theatrical Stage Unions [IATSE], local 52, which was established in 1924. When he died he had a paid up book in IATSE.

When the movie industry left for Hollywood in 1929, Pete drove armored cars, then became chief of guards and guides in the newly built Empire State Building. He worked there 9 years, and said that the best fringe benefit of the job was the people he met. One of them, Kathleen Liebner, Pete said in a recent interview for the New York's Irish Echo newspaper, was "pretty bright. She married the boss." That was Pete, of course, and they were married in 1936. Kathleen died in 1961. To this day if you visit the Empire State Building, just before you are admitted to the tour you'll be greeted by a large picture of Peter with Fay Wray taken around the time of the filming of the original King Kong movie.

Pete next worked as a laborer's foreman for the 1939-40 New York World's Fair. When the fair closed Pete made the move that determined the rest of his career. In 1941 he took a job with the New York Central Railroad and was involved quickly in union affairs with the Brotherhood of Railway and Airline Clerks [BRAC]. By 1950 he was vice chairman of BRAC's New York State Legislature Committee.

In the late 1960's, he was called to Washington to serve as BRAC's national legislative representative.

Jim Kennedy, now the executive secretary treasurer of the Railway Labor Executives Association and one who worked and lived with Pete a la the Odd Couple during Pete's years in Washington said:

There's an expression often said and rarely justified "he's a living saint" but it was true about Peter. If there is a heaven and I know there is, Peter is there growling at Saint Peter and arguing for better working conditions for the angels and even Hell's angels for that matter.

During his very productive years as legislative representative for TCU/BRAC and HERE, Pete played a key role, sometimes the key role, in guiding legislative victories for working people through the U.S. Congress. His personality and his compassion carried him to a close working relationship with a generation of U.S. Senators and Representatives.

During the last years of his career, though he never experienced a twilight era, Peter joined the Washington legislative office of HERE to help newly appointed Bob Juliano establish contacts and initiate a legislative/political program. Pete's tutorial skills are demonstrated in Bob's emergence in the last decade as one of the most widely respected and effective lobbyists in Washington.

Somehow also during these 20 years in the District of Columbia Pete managed to represent often for a song or a gold badge the interests of the Concerned Seniors for Better Government, the National Association of Retired and Veteran Railroad Employees, and the International Union of Police Association. He truly believed he was doing God's work in all these endeavors. As HERE President Ed Hanley said in a recent tribute to Peter "There's no way Pete's special brand of Irish charm and fellowship can be duplicated."

Pete is survived by his sister, Marie Gitto, of Pompano Beach, FL, a brother, Charles, of New York City, and several related nieces and nephews and scores of adopted ones who all came to know and love him as "Uncle Buster."

We have all lost a lot by his death but we all gained so much more because he lived and worked among and for us.

THE RETIREMENT OF DR. LUCILLE JORDAN

Mr. NUNN. Mr. President, I rise today to honor Dr. Lucille Jordan upon her retirement from the Georgia Department of Education. She has served for 10 years as the associate superintendent for instruction. Her many years of dedication to academic excellence have contributed significantly to the strength of Georgia's educational system. In particular, I want to recognize her national leadership in the area of parental involvement in citizenship education. Her refusal to accept voter apathy and her tireless efforts to excite young people about the political process are hallmarks of her brilliant career. Today, the National Student/Parent Mock Elections is honoring Dr. Jordan for her support of civic education.

I know that her skill and leadership will be greatly missed by all who have known her. I offer my best wishes to Dr. Jordan for happiness and prosperity in the years ahead.

CHILD CARE

Mr. REID. Mr. President, the family unit as we knew it 30 years ago, and as remembered in such television classics as "Ozzie and Harriet" and "Leave it to Beaver," is fading fast. It increasingly is being replaced by single-parent families and those in which both parents must work outside the home.

I found out about this firsthand a week ago when I conducted a field hearing in my home State of Nevada on the issue of child care. This was done under the auspices of the Senate Appropriations Committee. Through 3 hours of informative and often moving testimony, I learned that many of these families are finding it difficult to survive. If working parents can find suitable child care, they often have to spend more than half of their salaries to pay for it.

The statistics I heard from experts in the fields of juvenile delinquency, education, social work, and child care were staggering. For instance: divorce often plunges custodial mothers and their children into poverty. Did you know that the income of custodial mothers after divorce drops by 70 percent?

Here is another statistic. Single mothers with children are unquestionably the most visible growing group of poor in Nevada. About 65 percent of single women with children living in poverty are working, but three-fourths of them are employed only part-time. They are usually young women with limited job skills. That creates a difficult situation with the cost of housing, energy, food and child care.

Yet another statistic shows that roughly 35 percent of those who drop out of the Clark County Community College single-parent program cite child care as the reason why. This is 21.3 percent of the total dropout rate at the college level.

Single-parent families in Nevada have more than doubled from 1970 to 1980. In 1970, there were 9,600 single-parent families and by 1980, this number increased by 146 percent—that is right, 146 percent—to more than 23,000 single-parent families. That is up to 1980. We do not have any idea of what it now is, but it is now over 50,000 in the State of Nevada. This is in a State with a population of little more than 1 million people.

The National Commission on Working Women states that no more than 10 percent of gross income should be spent on child care. In Nevada, the average child care costs range from $50

to $75 a week for each child under 6 years of age. That translates into roughly $2,600 a year. If a family in this case were to try to go by the 10-percent rule, their income would have to be $26,000 a year to afford child care.

Mr. President, I could go on and on. I could cite more statistics on the problems of unsupervised children, as longtime Clark County Juvenile Court Judge John McGroarty outlined at the hearing. He spoke literally with tears in his eyes about the problems he faced on a daily basis, relating most of the problems to a lack of supervision when the child got out of school.

I could relate about community child care services, a child care center in Reno that helps low-income families with their child care needs. They now care for about 45 children at the facility—but have a waiting list of more than 200. The list would be much larger, but people do not try to get on it because it is almost impossible.

I could talk about little Lashona Henry, a 12-year-old girl who has to pass by drug pushers on her way home from school—only to be greeted by an empty house because her mother does not get home until after 5 o'clock.

Mr. President, these people are looking for leadership on an issue that is rapidly coming to affect us all. That leadership is provided by Senator DODD's Act for Better Child Care, which I have cosponsored.

I congratulate the Senator from Missouri [Mr. BOND] and Senator HATCH for recognizing this area as a problem. As we recognize that in legislation, there must be compromise, and I am glad to see that this need for child care is a bipartisan move.

ABC, the Act for Better Child Care, is a comprehensive child care bill that will help low- and moderate-income families as well as child care providers. It is a profamily, prochildren and probusiness piece of legislation.

Child care has become a national issue. Lack of it is forcing many families into poverty, and unsupervised children into trouble. For too long, we have been guilty of enduring a national policy of child carelessness. With the Act for Better Child Care, we now can be responsible for endorsing a national policy of child care.

Mr. BYRD. 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.

The PRESIDING OFFICER. I ask unanimous consent in my capacity as a Senator from Alabama that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2 p.m.

Thereupon, at 12:47 p.m., the Senate recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Nevada, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. 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 Oklahoma.

Mr. BOREN. Mr. President, I ask unanimous consent that I might make some introductory comments about the pending matter, S. 2, without it counting against the number of speeches that I may give on this issue.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BOREN. Mr. President, we have just completed party caucuses on the pending question, the campaign reform proposal. Yesterday we had a meeting of the group of eight Senators who have been working to try to negotiate a bipartisan consensus on this matter. That group of eight, as my colleagues will remember, includes Senator MCCONNELL, Senator PACKWOOD, Senator STEVENS, and Senator BOSCHWITZ on the Republican side of the aisle; and Senator EXON, Senator MITCHELL, Senator LEVIN, and myself on the Democratic side of the aisle. We have been meeting in good faith trying to reach a bipartisan consensus on this important problem because we feel very strongly we are facing an American problem, a fundamental problem with the way we finance campaigns in this country and that we should try to find a solution to that problem in a manner that will not tilt and give a partisan advantage to one party over the other in the political process.

Yesterday at that meeting of the group of eight, Senators MCCONNELL, PACKWOOD, STEVENS, and BOSCHWITZ presented a plan on behalf of that side of the aisle. It was entitled "The Campaign Spending Reform Act of 1988."

I have long said that if any bill does not include in some way a limit of overall campaign spending it could not be considered to be a real reform; that any bill that did not have some form of aggregate limits on political action committee campaign contributions would not be a real reform; and that any bill that did not have some effective mechanism of enforcement to keep candidates within those limits and also to assure that independent expenditures would not get out of hand with negative advertisements aimed against Members of the Senate and the House and candidates for office could not really constitute real reform.

Before I mention what was in the proposal, let me state that I was disappointed that there were no overall spending limits or a way to enforce them in the proposal. There were no aggregate PAC limits. I do not believe sincerely that there are adequate protections against the pop-up problem which could surely result when you try to squeeze some of the money out of one part of the system only to have it pop up someplace else in the rest of it.

I was pleased, however—and I think my colleagues on this side of the aisle were also pleased—that there were several recommendations patterned after the proposal that Senator BYRD and I, Senator EXON, and others had made in the latest compromised version of S. 2.

There were several things included in that proposal that we welcomed, including closing the bundling loophole. That was proposed by the group of negotiators on the other side of the aisle. There is a provision stating that any group or person who independently finances a political ad must disclose the name of the person or organization paying for it and carry that disclaimer throughout the ad. That certainly is a proposal that wins great support, I think, on both sides of the aisle. I commend them for including that provision in their proposal.

There is a provision tightening the definition of independent expenditures to stop consultation and coordination between candidates and agents of expenditures, so-called independent agents. This also is certainly a welcomed proposal.

There is disclosure of independent expenditures above a $10,000 threshold level, as well as prior notice of independent ads. This also is a very meritorious proposal and one which has a good deal of support, again, on both sides of the aisle; one which we could accept and would support.

There is disclosure of all soft money contributions to national political party committees, something that, again, we support and have attempted to include in S. 2.

So there are a number of things here with real merit that have been proposed. But, again, let me say there simply are a number of areas where we do not go far enough.

First of all, the proposal on the millionaire's loophole just is not sufficient. The proposal by Senator McCONNELL will allow candidates whose opponents spent more than $250,000 of their own money in their own campaigns to receive contributions from individuals in the amount of $10,000, up from the current $1,000. And I am afraid this practice would just lead to a further arms-race type of competition for money.

S. 2, on the other hand, deals with the ability of wealthy candidates by limiting personal wealth in the form of a direct contribution or a loan to their campaign level at $20,000 instead of the $250,000 threshold that has been proposed and by allowing a limited grant of funds from the voluntary tax checkoff account to candidates who abide by the spending limit but whose opponent does not abide by it, whether through the use of personal wealth or otherwise.

We have an effective means to combat extensive spending by another candidate, whether it be from personal wealth or from contributions. Spending of personal funds by candidates cannot be directly limited except through constitutional amendment to overturn Buckley versus Valeo or some kind of mechanism as we have adopted.

There is also included in the McConnell proposal that we adopt a provision that would define the lowest unit rate cost for advertising. That would require that the broadcasters give the lowest unit rate to candidates based upon a 1-year average of rates for the prior year. Again, we think this is a very meritorious proposal and one that many of us feel should and could be included in a final compromise package.

I would point out that I think, again, absent the overall spending limits, it will not, by itself, cure the increasing and escalating costs of campaigns or of campaign financing, but it is something that would be helpful.

It was also the proposal that we lower the PAC contribution from the present $5,000 to a maximum limitation of $1,000. Again, this is something that simply will not solve the problem that we have been talking about on the floor of the Senate. Less than 6 percent of the total PAC money that is contributed comes from PAC's that are contributing the maximum allowed now of $5,000. The vast amount, the millions of dollars of PAC money coming into campaigns, is coming from PAC's that are giving in the neighborhood of $1,000 or less.

We also have this concern: That if there is not a limit on the aggregate amount that a candidate can receive from PAC's there will simply be an easy way for PAC's to get around the provision of lowering the maximum contribution from $5,000 to $1,000. They will simply create more PAC's. A company will simply create a separate PAC for each of its subsidiaries. So, instead of having one PAC giving $5,000, they will now have five PAC's giving $1,000 each. Instead of having 4,000 political action committees in the country, we will end up with 20,000 political action committees in the country.

So we simply do not see how we can control the effect of this imbalance that now exists between grassroots contributors and the special interest groups, the political action committees mainly controlled in Washington, DC. The problem is that we have almost 200 Members of Congress that have received a half or more of their total contributions from these groups instead of from the people back home. The only way to restore some coherent balance to that and to put campaigns back to the grassroots level to be financed is to have some sort of aggregate limit.

In our bill, we set a dollar limit figure by State based upon a formula that works out roughly to about 20 percent of the current cost of campaigns. It means it would be thrown back to individuals, hopefully in your home State, hopefully at the grassroots, to raise the bulk of the contribution.

Under our system, we require a sizable proportion of qualified amounts of contributions will have to come from inside the home State and they have to be $250 or less.

I think we also have to be concerned about the need for overall spending limits. We are simply not going to be able to squeeze the money out of the campaigns that would be squeezed out from the direct contributions of political action committees and not have it pop up someplace else if we do not have some kind of overall limitation and if we do not have some kind of effective means for making sure there is a way to offset the independent expenditures.

If we were to drop the political action committees, let us say, from being able to contribute about $46 million, as they did to the Senate candidates in the last election, and say they can only contribute about $16 million, as would be the case under our bill, the question arises: What happens to the other $30 million? Will it disappear? Will it be returned to the contributor? Will it be donated to charity? It is not likely that will happen.

What might well happen is those groups will simply call themselves independent committees and use the $30 million to begin independent negative campaigns on behalf of groups against candidates. That is why we have a provision in our bill that allows for funds from the checkoff fund to be used as a disincentive to groups. If a candidate is attacked unfairly by these groups, they would get checkoff funds to match and to offset the negative advertising. It makes it very unlikely that those groups would ever seek to form and to put forward that advertising in the first place.

So we have some inadequacies here in the proposal and some good points in the proposal which has been received with a good deal of enthusiasm on this side of the aisle: The idea that we should define the annual and average advertising rate, that we make that provision of the lowest unit rate a meaningful one; the idea that the very wealthy candidates should not be able to loan his campaign a vast amount of money and then go around afterward or give his campaign a vast amount of money and then go around raising contributions later to pay themselves back.

There are some very meritorious provisions. There is a willingness on our part to discuss additional possible disclosure of soft money if we can find practical ways to do it. And I would say this: We want to continue our negotiations. We are here now at a point in which we must push ahead with the Senate's business.

We have to make sure that negotiations do not become a method by which we defer action. We have only so many weeks on the Senate Calendar, and therefore we must press ahead and, therefore, as I understand it, the leadership intends to push ahead. We are ready to vote on this side of the aisle on the package. The motion is pending. We are not going to hold the floor. We are not going to continue to give our arguments. We are ready to vote.

After that vote, of course, that proposal would be open to amendment from the other side of the aisle or to anyone on this side of the aisle that sees a way to improve it, and we hope, since 52 Members have sponsored this bill, since up to 55 Members have already indicated last year their desire to bring debate to a close, that there will not be an effort made to prolong debate, there will be a willingness to let us go ahead to go to a vote and then go to consideration of individual amendments to change this proposal.

But let me say again, we discussed this matter in our caucus today. We have the strong feeling on this side, and I would say it is the feeling of the vast majority of the sponsors of this legislation who constitute a majority of the Senate that it is not healthy for campaign spending to be increasing at the current rate, that we simply should not be in a position of having to raise $10,000 every single week for 6 years, week in and week out of a 6-year Senate term to raise the amount of money that on the average—not in a big State but on the average—is needed to run a successful campaign

for the U.S. Senate. It is not healthy. It is not healthy for the next generation to allow campaign costs to continue to escalate 400 percent, 500 percent and 600 percent every decade.

Where is it going to end and what is it going to do to the process and what is it doing to this institution? We do not have time to deal with the problems because we are too busy using our times and our energies, out having to raise the moneys to run for election.

So we would say that the proposal so far, made on the other side, simply does not really constitute true reform. It resists the idea that we try to get campaign spending under control. It resists the idea thus far that we could have any kind of aggregate limit on PAC's. It sets in motion a plan that would be very easily evaded by simply creating more PAC's and having the same $46 million or $50 million or $100 million pumped back into the system, but this time $1,000 at a time for more PAC's instead of $5,000 at a time from fewer.

So we feel we must go back to the drawing boards and try again. So let me just state for this side of the aisle our willingness, as we have the debate proceed here, to continue. I hope that the other side will be willing to continue these good-faith efforts. Let me say, Mr. President, that in the best tradition of this body even at moments where we have had the strongest of philosophical differences about this matter, we have been able to have those differences, I think, with tolerance and with much respect on both sides and they have been handled in the best tradition of tolerance and open debate, not getting into personalities or personal feelings.

I want to thank both those that have been on my side of the aisle and those on the other side of the aisle. I see the Senator from Kentucky and I will yield to him in just a moment. He is on his feet. I appreciate very much the spirit in which those negotiations have gone forward.

Let me just say that in light of the fact that there has not been an overall spending limit agreed to or proposed from the other side and in light of the fact that there has not been any aggregate limit on the amount that PAC's could contribute, we would have some additional proposals, counterproposals. We look forward to discussing these informally.

First of all, we began, again, with the basics of the latest compromise version of S. 2. It is a version which as my colleagues remember does not include any automatic public financing. It includes public financing only as an enforcement mechanism that comes into play from the voluntary checkoff fund if one of the candidates exceeds the spending limit. If no candidate exceeds the limit, there would never be $1 spent from the checkoff fund and we all hope that will happen.

But, in addition to the provisions now in S. 2, we would propose accepting the provision of the Senator from Kentucky and his colleagues on that side of the aisle on defining the lowest broadcast unit, the lowest broadcast rate for purposes of providing it to candidates with the voluntary spending limits. We would propose accepting that provision about how much wealthy candidates can loan and give to their campaigns and not be able to go out afterward and try to recover the money. We accept that. We would be willing to talk about more disclosure in the area of soft money contributions. We would be willing to talk about that particular provision. We would hope that they would come to us with an agreement to look at aggregate PAC limits. We think that is very important.

Finally, let me say this. We are willing to sit down on another matter that I think is extremely important and perhaps this is the most important one of all. There seems to be perception on the other side of the aisle that somehow we are trying to seek some kind of partisan advantage with this legislation. Senator Goldwater and I had the same experience when we were offering our first bill several years ago. The Republican Caucus in essence told Senator Goldwater they were afraid that he had been taken in by the Democrats and was trying to help them inadvertently. I was told by the Democratic Caucus that they thought I was well-meaning but I had been taken in by a Republican plot to help the Republicans.

I think whenever you start talking about campaign changes and campaign reforms, especially in the way that we finance campaigns, there is always a suspicion on both sides of the aisle that an attempt is being made to craft a package with partisan advantage.

That honestly and sincerely is not our point. It has been mentioned here several times and I have had these discussions with Senator DOLE, who has raised this point with me in private as well as in public. There is a real concern in areas of the country where there is an historic imbalance between the parties, either an imbalance in registration, or in those States which do not have registration, by party; an imbalance in the historic outcome where two or three times as many people over, say, a three or four decade period are elected to Congress from one party than are elected from the other.

Mr. President, our colleagues from our side of the aisle, and the group of four from this side, are willing to sit down and talk about that. Specifically, we are willing to offer a change in the formula for the overall spending limits to make it higher in those States where there is an historic imbalance in either party registration or where there is a historic imbalance in the number of people elected to Congress from those States, by party.

We are willing to do that. We would welcome a proposal from the other side of the aisle as to the amendment by which they think the ceiling should be raised in those States so that the challenging candidate from a party that has historically been in the minority in those States would be able to raise an adequate amount of money to be sure that they could make their case against a sitting incumbent of the other party. We are willing to talk about that.

We do not seek a partisan advantage and we want to make that very clear.

So we have several points that we can accept now and accede to. We have additional willingness to sit down to talk on soft money disclosure; we have additional willingness to talk about changing the formula as long as we keep an overall spending limit, to revise that limit upward in small States or in States where we have a historic imbalance between the parties. So that we make it crystal clear, no one here is seeking a partisan advantage.

What we are seeking to do is something beneficial to this country and that is have politics which competes on the basis of issues and candidates and their qualifications and not on the basis of which candidate is able to raise the most money in a campaign. It has simply been unhealthy and unwholesome and all of us know what is happening to the political process in this country.

I think many of us have a feeling of great concern when we are forced to spend so much of our time and when we are forced to go to interest groups who have pending legislation in front of us to try to raise money for campaign funds. It puts us in a very awkward situation and when the amount of money involved is so high it also means we have to spend more and more of our time not in our home States, because very few of us come from States that have the financial resources available in this day and time with which to finance campaigns.

It means the Senators and Congressmen are having to go increasingly to other States where they do not live and that they do not represent, to try to raise money from people there with financial means instead of spending time with their own constituents at the grassroots.

So there are problems we think, very sincerely, and the proposal has been made from the other side of the aisle in one of the limitations they propose. They propose not only disclosing soft money but actually limiting what can be done in a volunteer way in terms of

volunteering time or advice to candidates and I do not think we can really do that. There we really do get in, directly, into the problem of free speech. We also get into mechanical problems. You have some organization that has a statewide get-out-the-vote effort, let us say, on behalf of the Republican Party or Democratic Party. How in the world could you possibly give an exact proportion of the benefit drive to the candidate for the U.S. Senate or House or Governor or county sheriff or county judge or something else? So that becomes difficult.

But I think in the area of disclosure we can talk more and we are going to make it clear that we are willing to come to the table and talk again, especially with an eye toward making sure that the overall spending limitation would not be at the disadvantage of any one party and we would welcome a proposal from the other side as to how much they would believe the ceiling should be adjusted upward in States where there is a traditional imbalance, historic imbalance between the parties.

So, as we press ahead, let me say to my colleague, and I will yield the floor now, we press ahead but we still want to leave the door open. We are ready. We want to have further discussions. These discussions have been conducted in good faith by both sides; they have been conducted in good spirit by both sides, and I hope while the leadership which has an obligation to push ahead with the schedule of the Senate does so, I hope the other side will simply allow us to have a chance to vote and will offer their amendments that they sincerely believe should be adopted. We are ready to vote on the amendments that they have, discuss them in a brief and timely fashion, and vote on them and then try to move us toward a general solution. I hope they will do that instead of deciding to mount a filibuster to keep us and the people and the majority of the Senate from working its will.

But whatever happens on that score, procedurally on the floor, we do hope to continue our negotiations and I, again, have summarized the points that we are willing to adopt out of their proposal and the further steps that we are willing to take or to discuss with them as we try to move toward some end, positive result.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, let me first comment that I appreciate the efforts of the Senator from Oklahoma on the pending legislation, and I enthusiastically support the legislation concerning this money chase we have seen in these campaigns.

In the last Senate race in my State, the two candidates spent over $10 million apiece. The last Governor's race, they spent over $10 million apiece. I am looking at my own reelection. The estimates are we will have that kind of expenditure in my Senate race.

We have to put some limits on it, and we ought to do it right now. I strongly support efforts to accomplish just that.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that my remarks not be included under the two-speech rule.

Mr. BYRD. Mr. President, I reserve the right to object. I will not object in this instance. I do not know when or whether we will start enforcing the two-speech rule, but would the distinguished Senator allow me to make just a few comments before he proceeds?

Mr. McCONNELL. I will be happy to accommodate the majority leader, if I could just make one observation. My colleague, Senator BOREN, has performed the same function on that side as I am. He made precisely the same unanimous-consent request a few moments ago before he reported on his policy luncheon, and I was seeking recognition simply to do the same thing.

Mr. BYRD. Yes.

Mr. McCONNELL. And not to make very lengthy remarks.

Mr. BYRD. I certainly will not object. I will await the conclusion of the Senator's remarks.

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

Mr. McCONNELL. Senator BOREN also wanted to return to the floor, and I have asked a page to get him. So I am hoping he will be here momentarily, as he was in the cloakroom.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. I would say to my friend from Nebraska——

Mr. EXON. Will the Senator yield so that I might make an inquiry of the Chair?

Mr. McCONNELL. The Senator from Kentucky will be happy to yield for that purpose.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Since it has just been granted, as I understood the discussion between the majority leader and the Senator from Kentucky, that the remarks the Senator from Kentucky is about to make will not be counted under the two-speech rule, I ask unanimous consent that the same rule apply to the previous remarks today by both the Senator from Texas and the Senator from Oklahoma.

The PRESIDING OFFICER. That order has previously been entered.

Mr. McCONNELL. I might say to my friend the Senator from Oklahoma had made such a request.

The PRESIDING OFFICER. I am sorry. I thought the Senator said the Senator from Oklahoma.

Mr. EXON. Did the Senator from Oklahoma make the request that the Senator from Kentucky just made?

Mr. McCONNELL. Yes.

Mr. EXON. Then I ask unanimous consent that any speeches made on this subject previous to this particular time not be counted as part of the two-speech rule, up until now. And, of course, the Senator from Kentucky has already been granted an exemption in that case.

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing none, that is the order. The Senator from Kentucky has the floor.

Mr. McCONNELL. I thank the Chair.

I listened with interest to the report of my good friend from Oklahoma about the proceedings at the Democratic policy luncheon and would like to make a similar report with regard to the Republican policy luncheon.

First, let me say we discussed, again as the group of eight indicated its desire that we do, the question of expenditure limitations in congressional races, and I would like to respond to my friend from Oklahoma that our position on that issue remains the same. It is the feeling of the Senator from Kentucky that is not one of the negotiable items.

Having given the bad news, let me respond with the good news. I am pleased at the response of my friend from Oklahoma to a variety of the proposals that we offered to the other side yesterday at the meeting of the group of eight. As I understood the comments of my friend from Oklahoma, he indicated with regard to our suggestion that PAC contributions be lowered from $5,000 per election to $1,000 per election, it would simply encourage PAC's to spend their money elsewhere. I think I can safely say this with regard to our position on PAC's. We are open to doing something about PAC's. As you know, the Senator from Kentucky introduced a bill last year that would have eliminated PAC contributions altogether. I am certainly open to any suggestions on PAC's including, I might add, the recommendation of the Senator from Oklahoma with regard to some kind of aggregate limit. I think that is something we are open on and I gather that is why he was standing.

So we are more than happy to do something meaningful about PAC's. Clearly, if there is any interest out in the country on this issue—and we have had some discussion about whether there is, but if there is any—I think it

is clearly related to the PAC contribution. We are certainly open to doing something meaningful about PAC contributions.

With regard to the recommendations we issued yesterday on the millionaires problem, I think I am totally safe in saying that any way we can get at the millionaire problem consistent with Buckley against Valeo we are open to. I think it is a growing problem, the expenditure of personal funds in great amounts to buy, if you will, public office.

I was pleased that my friend from Oklahoma liked our proposal, that you at the very least prohibit the millionaire from getting his money back by going around town and shaking down, if you will, every political action committee or individual he can find to help him get out of debt after he won the race. I gather that is an acceptable proposal. I gather the Senator was not quite as sanguine about the other proposal requiring one to certify to the FEC at the beginning of the elections—was that acceptable as well.

Mr. BOREN. If my colleague will yield, yes, that is acceptable as well.

Mr. McCONNELL. Good.

Mr. BOREN. There is some concern, and I think something we have to talk about further, I think legitimate concern about raising the limits of contributors. We were afraid that might spark an additional money race. But as to the original notification of intent to spend more than a certain amount or loan more than a certain amount and inability to get that paid back later through raising contributions to do it, there was agreement on that.

Mr. McCONNELL. Suffice it to say then that there is substantial agreement for whatever we can do consistent with the Constitution to solve the millionaire problem.

I gather from the observations of my friend from Oklahoma that soft money reporting is not a problem on that side of the aisle, and I think that is a significant step forward. We both realize that with regard to the limitation of soft money contributions, it is pretty complicated to figure out how to do that. But I think as our discussions continue, we ought to at least discuss that, because there is a pretty widespread feeling on this side of the aisle that if it is OK philosophically to limit and disclose cash contributions, why not disclose and limit soft money contributions? And one of the frustrations, as many know on this side of the aisle, is that we do not do as well with soft money contributions, and so the feeling is if you are going to limit and disclose cash contributions, why not soft money contributions. So at least we ought to continue the discussion of the possibility of limitation, but we are very pleased that it is acceptable to require disclosure.

On the broadcast rate issue, I was very happy to hear my friend from Oklahoma indicate receptiveness on that issue. That is what is driving the cost of campaigns, the cost of television. It is the single most important way we reach the voters in this modern age. We cannot go back to the horse and buggy. We can never shake enough hands or have a meaningful exchange with enough voters to get there the way they used to in the old days. We have to use television, and so the broadcasters have us, have us, and the rates have gone up dramatically, and so I was extremely pleased to see that that was an area of agreement.

Further, I gather that the suggestions of our side and the group of eight on the limitations on independent expenditures were largely acceptable; also on the bundling issue.

So, Mr. President, we have made some progress. I say to my friend, the majority leader, we really have made some progress here. We think that discussions have been useful. I think that there has been a total absence of hostility and rancor in those sessions as we have discussed our differences rather frankly. It seems to me we have come a long way. I hope we can continue and possibly reach some kind of agreement.

But I would say once again that clearly limitation on participation in the form of limited and disclosed cash contributions to campaigns is something that this side is simply not going to agree to.

Mr. President, I yield the floor.

Mr. BOREN. Mr. President, I wonder if I might ask unanimous consent to respond to the comments of the Senator from Kentucky without having it count as a speech under the two-speech rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOREN. Mr. President, I again what to thank my colleague and commend him again for the spirit in which these negotiations have been conducted; and his colleagues with him. I think all of us realize we are dealing with a very difficult problem. It is intellectually a challenging problem to determine how to reform the campaign laws and not have unintended consequences.

I think we all realize, and to me we have come a long way from where we were 5 years ago and 10 years ago. We have all realized there is something wrong with the current system. It is obviously something that is just not working as it should; that it is broken and it does need fixing. I think that is a very important start.

We have also, as has been outlined in this colloquy back and forth, found some very strong common points of agreement. I would say that having just heard my colleague, it sounds like we are in some fundamental agreement on several points and potential agreement on one of the two major areas of reform as we have outlined them here on this side of the aisle; that is, the possibility of talking about aggregate PAC contributions. We feel that is a very important part of any final agreement.

Let me go back again to the fundamental question where we obviously do have some very strong disagreement. I think again if you went back to the polls of the American people, if you talk to people around the country, they are concerned about the imbalance between the PAC contributions and the amount of money and number of contributors that are coming from the grassroots and the people back home. They are worried about the people back home being displaced out of the financing of campaigns because special interest groups are controlling elsewhere. They are concerned about that.

But I think there is probably an even higher level of concern, and I would say it is a level of concern reflected again in all honesty on this side of the aisle; that is, that the cost of campaigns are simply going up too much.

If we are going to put together an effective package, we have to have a mechanism that deals not only with aggregate PAC contributions or the percentage of money coming from PAC's. We have also to have to deal with the problem that there is just too much money pouring into the campaign process period.

Part of the problem is the matter of where the money was coming from. We seem to be reaching or moving toward some pretty good agreement on tackling that problem of where the money is coming from. There are many of us who sincerely believe there is also a problem about how much money is coming in. I guess there is a fundamental difference of opinion. We might simplify it, and say this: There are those on the other side of the aisle—and I do not draw this distinction because I do not think it is purely partisan—there are clearly others on that side of the aisle who agree with us. Senator THURMOND, for example, a very respected member of the Republican Party, has joined with Senator HOLLINGS, a respected member of our party, to propose a constitutional amendment to give Congress the authority to limit the American campaign spending. I have had many others on the other side of the aisle say to me philosophically they are not opposed to limits on campaign spending.

So when I say the difference between the two sides of the aisle I do not by any means mean to draw that exclusively in party terms. Let us just

say there is a philosophical difference between those in the Senate and we who feel there is nothing wrong, nothing alarming, nothing bad about the fact that the cost of campaigns has gone up roughly 500 percent in the last 10 years.

Mr. McCONNELL. Would the Senator yield?

Mr. BOREN. They do not see anything wrong with that. They do not think it is bad for the country. There are many of us who feel it is bad for the country. If it went up another 500 percent, it would be worse. If it went up another 500 percent, it would be worse still.

If the average cost, which has already gone from $600,000 to $3 million in just 10 years that I have had the privilege of serving in the Senate, is going up to $15 million, another fivefold increase, some say that it would be good. I do not see it as a positive good. I see it as an evil. I say that very sincerely. I do not think it is good for the country that it costs more and more to run for public office.

I do not think it is good for the country that more and more competition is on the basis of who can raise the most money. I do not think it is good for the country for Senators to have to spend time to raise $10,000 each and every week, and in some States it is more like $50,000 to $100,000 each and every week, in order to run for the U.S. Senate or to seek reelection to the United States Senate.

Mr. McCONNELL. Will the Senator yield for a question?

Mr. BOREN. I will yield in just a moment.

So I think there is a fundamental difference on that point. In the debate now, it is clearly revolving around that point, and I do not mean to say they are not very worthwhile areas of agreement that we have reached. There are. I hope it will set the stage for us to work out some kind of formula by which we can crack open this problem that we are now trying to deal with and find some way to have a meeting of the minds.

I think unless we have reform in a comprehensive way, and I am one that started out attempting piecemeal reform. Senator Goldwater and I, in all sincerity, started out on that path together several years ago. It was a privilege to work with him, a person for whom I have very great respect in that cause.

We kept coming up against problems. They shut off the right of PAC's to give certain amounts of money to candidates. Why would they just want expenditure councils, go out and spend that $30 million, and then go to candidates on independent expenditures?

So we came up with a checkoff system which under the constitutional decision, the Supreme Court and the Buckley versus Valeo case seemed to be the only way we could devise to make sure we had something really effective to keep these groups from going into independent expenditures. It would be foolish for them to do so if they knew the candidate they attacked was going to get funds sufficient to answer them. They would really have no purpose to, especially if you add to it the kind of provision we have agreed upon here, some sort of a disclsoure throughout the advertisement of who is paying for it, and so on. Notice is being given in advance that the expenditure is going to be made. All are good things. But you still have to have an effective means for getting that money from popping up. Unless you have comprehensive reform, you do not.

I think you still have to have an effective means for assuring, as I have said several times, that these young people who serve as pages in the U.S. Senate, if they ever want to run for the U.S. Senate themselves, and we hope they will. The experience I had briefly in the House of Representatives certainly inspired me to want to do that. They would not have to start thinking about how they are going to raise $15 million. That is what it is going to take in about 12 years at the current rate to run. That would not be something they will have to spend their time thinking about. They can think about their aspirations for this country and their hopes and dreams for the future.

There comes a time in which we have to consider and care more about the future of the next generation than we care about our own political success at the present. We have that responsibility to the next generation. And many of us feel passionately that should happen.

So at the same time I understand there are those on the other side of the aisle saying, "But wait. You are building in a partisan disadvantage." I agree there is a potential if the limit is set too low in the State where one party clearly has an advantage over another. It is also true of incumbents. Incumbents generally have an advantage over challengers. They have name recognition, franking privileges, and many other privileges to keep their names before the public.

If the limit is set too low it really puts the challenger or the minority party at a disadvantage.

Mr. President, we are really willing to talk about that point. We do not seek a partisan advantage. We seek an overall end to this money raising. Yes. We think that is an issue that the American people would vote with us on.

If we went out of here, I am convinced, and ask the American people, "Do you think it is good for the cost of campaigns to have gone up 500 percent over the last 10 years; do you want the cost of campaigns to go up another 500 percent over the next 10 years" I think the American people by a resounding, near unanimous vote would say, "No, that is not good for the country."

So I would just urge again. It is a matter of sincere philosophical feeling that we would very much like to talk to those on the other side about this particular issue, and we would hope that holding out the olive branch to show we do not seek a partisan advantage; that we are willing to talk about formulas; to have higher spending limits in States where there are historic imbalances between the parties that we demonstrate we do not seek a partisan advantage; that is a true philosophical commitment; a feeling on our part that the money chase is bad; that the cost of campaigns continuing to go up is not good for the country, is not good for this institution, and it is not good to take Senators away from their jobs and from meeting with their constituents. It is not good in terms of the appearance it creates to the American people that we are on the auction block. We spend too much time and energy trying to decide how to raise money for our campaigns. I hope we can find some way around that, because I am convinced the American people agree with us.

When those on the side decide to stop talking on this matter, we are ready to vote. We are ready now to vote on this package. As soon as I sit down, we will be ready to vote, and we have 55 Senators who have said they are ready to vote right now. As soon as I sit down in this chair, we are ready to vote. If no one wants to continue the debate or the filibuster, the question will be put, and the American people will have their chance to have their representatives vote.

Those on the other side who do not like the current form of this proposal will have a chance to offer amendment after amendment after amendment. There is no limit on how many amendments they can offer and how many votes they can get on changing this package. We have already indicated on this side that we will vote for some of the proposals that have been made for changing this package. There can be real bipartisan consensus on several amendments that will be offered.

I say again to my colleague that I hope he will let us vote on this package and that he will then offer the amendments he has, make improvements where we can, and in the meantime we will talk. We will talk whatever happens on the floor. We will try to negotiate in good faith.

I say that in good spirit to my friend, and I thank him for the cooperation with which he has conducted this discussion.

Mr. McCONNELL. Mr. President, I will spare the Senator, the Chair, and the listeners my response to the arguments about spending limits. We have made those arguments a number of times.

My question to the Senator from Oklahoma is simply this: When shall we meet?

Mr. BOREN. I am available.

Mr. McCONNELL. Why do we not work that out?

Mr. BOREN. We will try to figure out what time we can meet and discuss this. So far as I am concerned, we can meet later today. I have not heard from the majority leader. We could arrange for postsupper, perhaps, this evening. I understand that we may be spending a lot of time with each other. Hopefully, we will not. Hopefully, they will be prepared to vote on the other side. We are ready. I have talked with my three colleagues on this side of the aisle, and they share the desire to continue these negotiations.

I thank my colleague.

Mr. BYRD. Mr. President, may I ask that somebody get the distinguished Senator from Kentucky back on the floor?

I want the Senator from Kentucky on the floor.

Mr. President, I ask unanimous consent that I may speak for not to exceed 3 minutes, without it counting as a speech against the Senator from Nebraska under the two-speech rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I sought the attention of the distinguished Senator from Kentucky for this reason: This Senate is in a full-fledged filibuster. We have been on this bill now for 5 days, not including the many days of last year which spanned from the date of June 3, 1987, to the date of September 15, 1987.

Of course, the Senate took up many other measures during that time last year. On this occasion, this bill has been before the Senate and has been debated on February 17, 18, 19, 22, and 23. That is 5 days.

We sought to reach some accommodation by having two groups of colleagues meet, and I and others on my side have come to the conclusion that we cannot go on spinning our wheels. In the first place, we do not have the time to spend this year.

We have, hopefully, a trade conference report that will come along within a few days or weeks. We will have the catastrophic illness conference report. Around April 1, give or take a little, I would say that we should be ready to take up the INF Treaty.

There will be other legislation, such as polygraph legislation, Price-Anderson, intelligence oversight. There will be the budget resolution in due time.

These matters are not ready for action yet. Until the budget resolution is passed, we cannot take up appropriation bills.

So, in due time, there will be a heavy workload here.

Having experienced last year the futility of engaging in many, many weeks of debate, and going through seven cloture votes, and finding that little interest was stirred because we had a very casual filibuster that lasted from 9 o'clock in the morning until 5 or 5:30 in the afternoon, and in the meantime we would take up other measures, and so forth, it is the conclusion reached by a consensus on this side of the aisle that the attention of the country needs to be called to the fact that there is a filibuster going on; that our good friends across the aisle, with the exception of three on that side of the aisle, are bound and determined that they will not let this bill pass as long as it has in it a limitation on overall campaign expenditures, as long as it has in it a mechanism to enforce that limitation on overall campaign expenditures, and as long as it has in it a limitation on aggregate contributions from PAC's that may be accepted by candidates for the House and the Senate.

There the line is drawn. There is no point in having a nice, easygoing filibuster here, carrying on a slow filibuster in the back rooms. Let us have it out here on the floor. That is where it ought to be, where the American people can see it, right through those cameras; where they can see, through the representatives of the fourth estate, that this is a filibuster. The American people need to know what it is about, and they need to know who is keeping the Senate from coming to a vote on this.

As the distinguished Senator from Oklahoma has said, we on this side are ready to vote. The minute I sit down here, I am ready for the Chair to put the question. The Chair would have put that question had I not called the distinguished Senator from Kentucky back from the cloakroom.

Ordinarily, we protect each other here. I am a strong advocate of comity between the two sides, fairness in dealings and protecting the other side, and not taking advantage of the other side if a back is turned.

So no Senator on the other side has ever been fearful of walking out of the Senate and having something happen to him. If no Senator is on that side, it will not happen. A Senator on this side will put in a quorum or some such and alert Senators on that side.

But, we have to deal with a filibuster a little differently because a filibuster is something that is quite out of the ordinary. And so, during this filibuster, the Chair is going to put the question. At any time a Senator does not seek recognition, it is the duty of the Chair, whether there is filibuster or not, it is the duty of the Chair to put the question. Anytime a Senator sits down and no Senator seeks recognition, it is the duty of the Chair to put the pending question before the Senate. That is the rule. That is the precedent. But we do not ordinarily press that rule for reasons I have already said.

But, the next time a Senator on the other side of the aisle walks into that cloakroom and leaves nobody on that side of the floor to protect him, the Chair will put the question. I have instructed the Chair to put the question.

I told the very distinguished acting leader Mr. SIMPSON, yesterday, that this would be the case, and that I was telling him at that time so that he could bring the matter before the Republican Conference today and they would all be alerted, so that they would protect themselves.

I say this for the last time so that all Senators on the other side may hear and understand that if they want to protect themselves, they have to do so themselves because the Senate needs to vote on this question that is before it.

We are ready to vote. I am willing to enter into a time agreement to vote on the Boren amendment in the second degree before this day is over, or tomorrow, or whatever. We are willing to enter into a time agreement to vote on the bill. And, as far as I am concerned, on the amendments that the other side of the aisle wishes to push, we are willing to enter into a time agreement and include their amendments in that time agreement.

Let the chips fall where they may. Let the Senate vote on whatever amendments they have to propose. They say, "Oh, we don't want to invoke cloture because we wouldn't be able to get to call up our amendments."

One of the advantages of cloture is that it precludes nongermane and nonrelated amendments. And there are amendments pending right now in the lines of amendments to this bill that are nongermane. One deals with contra aid; another deals with the Monroe Doctrine. They have nothing to do with campaign financing reform. So those are the kinds of amendments we want to preclude.

As far as I am concerned, we can have an agreement to include certain amendments that the other side wishes to vote on and we will vote on them. But let's vote.

But, Mr. President, the only way that this Senate can pass a genuine campaign financing reform bill is to include limitations on spending. Now if a party is so bereft of ideas—and I do not believe the Republican party is bereft of ideas. It has produced good Presidents. It has produced good Sena-

tors. It has produced good men and women at all levels of government. But surely the Republican party is not bereft of ideas. Why, then, the argument that they cannot win in certain regions of the country unless they can spend unlimited amounts of money? I do not believe that the Republican party is bereft of capable, able, attractive candidates in any region of the country.

And so why not have a limitation on campaign spending? Let us stop the money chase. Let us stop the perception that this Senate is the fortified castle of special interests, the stronghold of special interests.

The American people are the special interests that we Democrats are interested in—the American people, the whole people, nothing but the whole people.

So, Mr. President, the other side says this is the line: "There will be no limit placed on campaign spending. We will fight it out on that line if it takes all summer." That is the attitude that the minority side is taking.

Well, let the American people hear that; let them know that; let the American people ponder that. Do they want their U.S. Senate seats to be up for sale? Is that what the American people want? That is going to be the perception if this bill is not passed and the current system prevails.

So, Mr. President, we on this side are ready to vote. And we are drawing a line also, and that line is there can be no genuine campaign financing reform in this country without a limit on campaign spending. This is a matter that cries out for reform, and there can be no reform unless we address the crux of the issue: namely, a limitation of campaign spending.

Having drawn the lines in the sand, we have decided that we will just go around the clock. Now it may be that our friends on the other side will prevail in the end. They prevailed last year. They rejected cloture seven times. And at some point I will offer a cloture motion again. I may offer a second one; who knows? But, I am willing to spend this week and next week in the effort. And I would not forswear using the week after the March break if the circumstances recommend it.

But there is no point in continuing the casual, gentlemanly, good-guy filibuster because it will just turn out as it did last year: Have a few cloture votes, everybody just takes it easy, everybody has a break for supper, everybody goes home and gets a good night's sleep, and everybody protects everybody else.

The American people will understand this is a filibuster. They will understand who is not willing to let the Senate vote on the bill.

Mr. EXON. Mr. President, I ask unanimous consent that the remarks I am about to make on this subject not be considered under the two-speech rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. EXON. Mr. President, I have listened with great interest to the remarks of my colleague from Kentucky and my colleague from Oklahoma, who have been carrying the ball pro and con on this issue. I have been with them, I think, each time they met with regard to trying to work out a compromise, and I endorse their efforts to keep talking.

Mr. President, the majority leader has said a great deal of what I was about to say. Therefore, there is no use repeating that. I think he said it very well.

The point that I wish to make is that I believe that my friend from Kentucky has been negotiating with us in good faith. We have had several meeting. The results of those meeting were highlighted in the report to the Senate given by the Senator from Kentucky and the Senator from Oklahoma.

The last comment by the Senator from Kentucky was that, well, he was pleased that we had accepted or tentatively agreed to accept some of the suggestions they have made and that maybe if we go on talking this evening, we can accomplish something. Let us not mislead the American people. There has been no give on the central issue of S. 2 as just outlined very adequately by the majority leader, and that is simply whether or not that side of the aisle will accept reasonable campaign spending limits. The answer has been no, no, no. We will talk about other things, but we will not compromise on the central issue of S. 2.

So, therefore, I simply say that, while I want to talk and while I am willing to compromise, I am not willing to be part of a so-called campaign reform bill that does not reform what is centrally wrong with the political campaigns of the United States of America today, and that is simply the fact that we are spending an obscene amount of money—obscene, Mr. President. I do not know whether the people of the United States are upset about this yet, but I assure you they are going to be.

If they are not concerned about it, they should be. Because I think what we are talking about here is the very fiber of this body: The respect that I think U.S. Senators are entitled to as elected by their people in their State to come here and represent them.

I would think back, Mr. President, to a time a few years ago, 1974, when the Federal Election Campaign Act of 1974 was passed. It was passed by an overwhelming vote of both Democrats and Republicans in the U.S. Senate and in the House of Representatives. In fact, the conference report passed the U.S. Senate 60 to 16, with the vast majority of both Democrats and Republicans voting in support of it. That campaign report passed the House of Representatives by 365 to 24. Just so that we can keep this in perspective, what did that 1974 act do? That 1974 Campaign Act recognized that we thought we were spending too much money on campaigns then and it has gone up dramatically since 1974. That Campaign Act of 1974 set a limit on how much money could be spent on a per capita basis for election to high public office. That was the act, of course, Mr. President, that the Supreme Court later threw out on the basis that a millionaire, or someone of whatever means, had the right to spend whatever amount of money they wanted to get elected to public office and that prohibition by the Supreme Court is what we think we have successfully gotten around by making the arrangement that we did in S. 2 before us.

So I am simply pointing out that in 1974 the vast majority of Democrats and Republicans in the U.S. Senate and in the House of Representatives thought campaign spending limits were a good idea. What has happened in the meantime? I suggest, Mr. President, that we may have forgotten, some of us. Maybe the American people have forgotten. I would simply say that that Campaign Reform Act passed at another time, in another era, when this country was shaken to its foundation or shortly thereafter, when we had a resignation of a President of the United States, and it had to do, that resignation, with a political campaign from another era.

The majority of the U.S. Senate and the majority of the House of Representatives could not afford to not be for true campaign reform at that time. I say that their wisdom then is just as telling as their wisdom should be today and I want to assure all that this is not a partisan matter in any way, shape or form by this U.S. Senator except that I am very, very worried, Mr. President, that some time in the possibly not too distant future there is going to be another political shakeup, a political fallout of some type that will bring this institution to its knees in terms of the respect for it given by the people at large. And then, Mr. President, when the heat is on in the countryside, then we will all rush in here and we will say, "Is this not time for campaign reform?"

No, the time for campaign reform is now. I assure you that those of us on this side are anxious to reach a workable, reasonable compromise but those of us on this side feel that a workable, reasonable compromise cannot be reached unless we can have some reasonable campaign spending limits.

Therefore, I say, Mr. President, that the filibuster that was mentioned by the majority leader a few moments ago is not a filibuster on this side of the aisle. I say, again, what Senator BOREN and the majority leader just said: We would be willing to enter into some kind of an agreement, time agreement, a number of hours that we would debate this. We do not want to vote right now? Maybe we could vote this evening at 9 o'clock? Or the day after tomorrow at 11 a.m.? Or a week from Thursday at 2 p.m. in the afternoon? Just so we can get to some time agreement and not have the use of the filibuster, which we suspect is about ready to take place on that side of the aisle, to prevent the majority of this body from working its will.

I would hope that reason would prevail, Mr. President. I would hope that we would not become involved in a shouting match, this side of the aisle against that side of the aisle, and vice versa, about who is all right and who is all righteous. I would simply say that I would think that as reasonable people who have an ability to agree on most things, let us at least come to a vote and let the U.S. Senate work its will.

We would agree that entirely too much money is being spent for political elections and reelections these days. I think it is becoming a national disgrace and is going to become more of a national disgrace in the future than it is right now unless we have the courage to do something about it.

So I appeal to all of my friends and colleagues on both sides of the aisle, for whom this Senator has a great deal of respect and for whom I get a great deal of respect, more and more, as I serve in this body each and every day despite the fact that we do not move things along as rapidly as many of us would like. There is a good group of people here representing their States as best they can. I would just hope that in this instance we would protect this institution. Get away from the business of expending an excessive amount of time on raising money for reelections, clean up our campaigns so that even we politicians could be proud.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Would the Senator from Nebraska yield for a question or, since he has yielded, respond to a question?

Mr. EXON. I have already yielded the floor, but I certainly would not object if my colleague has a request, if that talk he is about ready to give would not be carried under the two-speaker rule?

Mr. PACKWOOD. As a matter of fact, I am not ready to start giving a talk now, although I may, but I was hoping the Senator would respond to a question or two.

Mr. EXON. I would be glad to.

Mr. PACKWOOD. If we want to reduce the amount of money that is raised and spent in campaigns, why not just reduce the contribution limit to a dramatically smaller amount?

Mr. EXON. I would not object to reducing the campaign spending limits. In fact, had the Senator from Oregon been here a few moments ago he would see that, indeed, we agreed tentatively to reduce the PAC contributions, during the negotiations that were carried on between the pack of eight or whatever we are called.

Mr. PACKWOOD. I mean more than just that. Why not reduce the individual spending limit to $100 instead of $1,000? Why not force the costs of campaigns down by cutting down the amount people can give in campaigns?

Mr. EXON. I have no reason to believe that that would necessarily be bad. In fact it might very likely be in keeping with what the Senator from Nebraska was just proposing. The only thing that I would say in response to that question is that once you plug a loophole here, something else is going to pop up over here. It might well be that we could have some kind of a joint arrangement where we would dramatically reduce the amount of contributions that could be made by an individual or a group or organization to a considerably lower amount than today, so long as we still could agree on some kind of a reasonable total expenditure of funds.

Mr. PACKWOOD. Why? If you reduce the amount that people can give and if you force candidates to go out and raise their money and you have a low enough limit, you would have to do most of it in your home State. What is wrong if you could get 20,000, or 30,000, or 40,000, or 50,000 people in your State to give you $20 or $30 apiece or $40 apiece? Is that bad for democracy?

Mr. EXON. I do not think that is bad but I would also suggest that with the experience we have had with bundling, that I am sure the Senator from Oregon knows a great deal about, there are all kinds of ways to bundle and bundle and amass funds that both the Senator from Oregon and this Senator are quite familiar with.

Mr. PACKWOOD. I think on both sides, as I understand, we have agreed to do away with bundling. The Senator from Nebraska made a good point, that you try to write a perfect law. Somehow you do not contain everything. At least, you can make a good start. We can try to eliminate bundling.

Bundling, I might say, simply means that one person of an organization goes to a thousand of their members and says, "Give me a check for Senator EXON," and he collects a thousand checks from a thousand people. But, in essence, it is one person giving them to you. That is bundling.

We can pass a law saying that is illegal. I think we have agreed we can do that. I am talking about your going to Nebraska and my going to Oregon and having to finance our campaigns with thousands of donations of small amounts. That is what I would have to do.

We can, as I suggested, put a $100 limit on contributions. That would get your spending costs down and get thousands more people involved in democracy because we are an imaginative people. If we have to raise the money, we can make sure our organization does it.

It will, at the same time, and I sympathize with the majority leader's problem with Members having to be gone to raise money, cause other concerns. "I have a fundraiser in Florida," in Oregon, in New York, "do not look for me after 4 o'clock."

One of the toughest jobs around is the job of the majority leader, Republican and Democrat, with those kinds of requests.

I think I can assure my good friend from Nebraska if you had a $100 limit on contributions, you would effectively limit the time we could raise money. We could not raise enough money, personally, with $100 limits. Our organization of volunteers would have to do it. That is good for democracy. But you can achieve this without a spending limit. So what is the need for the spending limit?

Mr. EXON. I beg your pardon?

Mr. PACKWOOD. What is the need of the spending limit? You can put the spending down by putting a limit on contributions. You can force us to raise money in small amounts, which would be good, I think, by lowering the contribution from $1,000 to $100.

If we are worrying about the contributions of PAC's, I would be willing to limit them altogether, to zero, so that they cannot give to our campaigns. Why would that not achieve 99 percent of the end the Senator from Nebraska wants to achieve?

Mr. EXON. I think in response to the question, and I have answered this time and time again, I would say to my friend from Oregon that so many people are very much concerned about not what the total amount raised would be, but how the money is raised and where it comes from.

To answer the question of the Senator from Oregon, I would agree with what I think is his basic thesis. That is that if we had no more than a $100 limit, that any person, individual, or group could give to a campaign, that would be a whole lot better than the other extreme where $1 million was raised and given by one individual. I would agree with his basic thesis.

I am not sure that I would agree, though, that limiting expenditures to $100 or $50 or $500 would necessarily come about.

Mr. PACKWOOD. Limiting contributions to $100, not expenditures.

Mr. EXON. Contributions.

Mr. PACKWOOD. Contributions. Did I hear the Senator from Nebraska say that in his experience the public is not so much concerned about how much we spend but where we get the money?

Mr. EXON. No, you did not hear him say that. I said my view is that it would be better if we had whatever is donated in a campaign to come from a larger group of people rather than a smaller number of people. That is what I said.

Mr. PACKWOOD. We can agree on that. Would that be achieved, in your judgment, by lowering the contribution limit?

Mr. EXON. It might be achieved by lowering the contributions so long as you could legislate some kind of a bill that did not provide for organizations of various persuasions going about the country and calling for grassroots political contributions from those in Nebraska to elect a Senator in the State of Oregon.

Mr. PACKWOOD. You are back to bundling, again, I sense.

Mr. EXON. I guess so. I think bundling is a very serious matter and I think the Senator has agreed that it is. How we could outlaw bundling, per se, and still stay within the general guidelines of the Constitution, I am not sure.

Mr. PACKWOOD. Well, I think both sides are operating on a presumption.

I see the majority leader here and I would be happy to have him interrupt. Mr. President, might I also say a word of appreciation to the majority leader. I was watching when he called for Senator McCONNELL to come on the floor. That was very generous of him. I appreciate it.

I might say in the 18 or 19 years I have been here, this has been the habit of the majority leader, even before he was leader, that he has never taken advantage of a Senator who was not present. I appreciate that.

Let us say in Nebraska or Oregon, and our populations are not that far apart, that it was going to cost you $2 million to run a campaign, or whatever. Under the present limits, political action committees can give you up to $10,000. Most of them do not, but they can. Individuals can give $1,000, or $2,000 for the primary and general. So we could raise our $2 million.

I want to say again I spent a great deal more than that in the last campaign. I am using this for purposes of discussion now.

Let us say that we would have had 5,000 donors from whom we raised $2 million with those limits. If we were to get rid of PAC contributions altogether, they are out, and lower the contribution for individuals to $100, I would assume that in order to raise $2 million we would have to have a lot more than 5,000 donors. Perhaps 10,000 or 20,000.

I would also expect if you cannot bundle that you would have a dickens of a time raising money in small amounts in Oregon and I would have a tough time raising money in small amounts in Nebraska. The likelihood of my going door to door, my volunteers going door to door, in Omaha and getting people to give $20 to my campaign in Oregon, I think would be pretty slim. I think yours would be practically the same in Oregon.

Mr. EXON. I think that would probably be very difficult, but I would simply say, let us not underestimate the demonstrated talents of raising money for all kinds of purposes due to the very sophisticated direct mail techniques.

Mr. PACKWOOD. I am very familiar with direct mail techniques, and we should in the future deal on it. Direct mail fundraising is not cheap fundraising. It is expensive fundraising. I would say there are 5 or 10 Senators in this body who can raise money nationwide by direct mail, but most of us are just not that well known outside our own States. As much as we would like to think we are that well known, we are not.

All I am saying, and I say this in good faith because on our side we honestly think it—and this is not being benevolent—spending caps favor, and you can spend the same amount as your opponent, the majority party and favor incumbents. That is our fear. We do not mind lowering the contribution limits, and I think, frankly, what would happen if they were low enough, and this would be a reverse of the advantage, if they were low enough so that the bulk of the money raised, almost perforce, would have to be raised in your State, it would probably flip the advantage of the purpose of raising money to a home State challenger who is on the ground in the State all the time instead of here in Washington 8, 9, 10, or 11 months of the year.

But that difference on spending limits I think is a modest difference of opinion.

What I am saying is that what you want to achieve with spending limits, and it can only be done with some form of public financing under the present Supreme Court decision, some measure of public financing, can be achieved without going that route, and I fail to understand the unwillingness of the majority to accept another alternative to achieve the end they want to achieve.

Over and over and over it has been—if there are no spending caps, we are going to fight this out; we will be both U.S. Grants and fight it out on this line all summer, but if we will not agree on the Republican side to spending caps and therefore some public funding, because of the Supreme Court decision, there will be no bill, and we will take this to the public and we will let the public know who stands for reform and who does not. I am saying we can achieve that same reform without the public funding and without the spending caps and what is wrong with that alternative?

Mr. EXON. I would simply say to my friend that he may—I do not know whether he is making it or not—be offering a compromise that is worthy of consideration that so long as you would agree that you would reduce the total amount anyone can give, we would also put on a reasonable spending cap. It is possible to have the best of both worlds.

Mr. PACKWOOD. No. I think the majority leader has stated it well. A spending cap on the Republican side I think is simply unacceptable, and there are enough votes, because we feel it would put our party at an unfair disadvantage.

Now, if you lowered the limits dramatically, maybe you could spend as much as you spend now—maybe, if you lowered the contribution limits dramatically—but to do it the Senator would have to raise his money in Nebraska, I would in Oregon, not from 5,000 people, probably 50,000 people, 75,000 people at $10 or $15 or $20 apiece, and I think that is better for democracy because they are going to have to give it voluntarily. We are not going to compel them to give it. I think it is better than partial public financing of campaigns and an automatic spending limit, and I say in all good conscience that if you want to improve democracy, if you want to cut the cost of campaigns, if you want to spread out this process so that more people participate, I think the answer is to cut out the PAC's altogether, although I think we all agree under the present Court decision they can spend on their own without any talking to us. There is nothing we can do to stop that. But if you want to achieve the reduction in spending or, in the alternative, you want to achieve a much broader base of giving, why not just go the route of reducing the contribution limit.

Mr. EXON. If the Senator will allow me to respond, I would simply say to the Senator from Oregon I hope he knows that this Senator did not back the original version of this measure and came on board and has been a leader in putting it through only after

we came up with a formula that I had a considerable amount to do with that would eliminate all public funding if and when candidates would agree that a reasonable spending limit would be in order. So I would simply say that part of the argument that the Senator from Oregon is using with regard to public financing of campaigns is not in S. 2 as this Senator views it today.

Mr. PACKWOOD. I am fully aware of that, but I think all of us are also aware that if S. 2 in its present form should pass, there will be some public financing in the first election because you are going to have some who will say, "We are not going to agree with those spending limits." And as the Senator knows, there is then public funds involved. And I think if you pass S. 2 in its present form you are on the way down the road of reasonably large-scale public financing and spending limits for congressional races.

Mr. EXON. I do not happen to agree with the Senator from Oregon, but I respect his point of view.

Mr. PACKWOOD. I thank my good friend from Nebraska. I might say to the majority leader I am not going to stay here. I think somebody else will be coming to cover the floor in 10 minutes. I have a half-hour meeting in my office, and I will be back probably by 20 to 5 and will be prepared to spend as long here tonight as indeed the majority leader thinks it necessary to stay. I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. BYRD. Mr. President, this I think is a matter which requires the attention of Senators. Another way of conducting this filibuster, of course, is to have one Senator come to the floor, all his colleagues go home or stay in the offices, he comes to the floor, he speaks for a little while and puts in a quorum.

I should alert Senators that when they do that, I may ask to have that quorum called off, and if it is, unless a Senator seeks recognition, the Chair will put the question. So we are kind of at the beginning of the filibuster I guess as we are now calling a real filibuster. But I would suggest that if Senators really want to talk, they come to the floor and talk and that we may have to enforce the two-speech rule.

I am not advocating that right at this minute. But it will not be a filibuster in which a distinguished Senator, like the very distinguished Senator from Oregon has just done, comes to the floor, participates in a little colloquy, puts in a quorum and every body sits down and the clock continues to run and nothing happens.

Now, we are either going to talk or we are going to vote. The Senator is certainly capable of talking, I am sure, but I do not want us to get the idea that this is just going to be a matter where one Senator can look out for colleagues on his side of the aisle and he will come over and make some remarks, and he will put in a quorum and sit down and we will just beat around here and have a quorum that will last 15, 20 minutes. As he said, he will be back in 10 minutes, but where are all the other Senators?

Mr. PACKWOOD. If the majority leader will yield, the majority leader raises a good point. I did not mean to give the impression that I singly was going to try to conduct a filibuster by quorum call.

Mr. BYRD. No; I am not implying that.

Mr. PACKWOOD. I will let the majority leader continue and then I have a few more remarks to make.

Mr. BYRD. I have finished.

Mr. PACKWOOD. Well, I was going to say that years ago—and my good friend from West Virginia will recall Senator Williams from Delaware, a wonderful gentleman who overlapped 2 years here with me. He retired in 1970. When I first came here in 1968, we had a debate on whether or not we should change the rules for shutting off a filibuster.

The Senate will recall it was two-thirds present and voting and we moved it to 60 percent. I supported that. He opposed that.

Mr. BYRD. That was my proposal.

Mr. PACKWOOD. Yes.

Mr. BYRD. That it be 60 votes—three-fifths.

Mr. PACKWOOD. At the time, though, I do recall—and refresh my memory on this—we did not change the requirement for shutting off a filibuster on a rules change. That is still two-thirds, is it not?

Mr. BYRD. That is correct.

Mr. PACKWOOD. On a rules change.

Mr. BYRD. It takes two-thirds to shut off a filibuster on a rules change.

Mr. PACKWOOD. The majority leader will recall the famous ruling we had from Vice President Rockefeller when he was in the chair that angered some people on both sides a bit. But when I was here in 1969 as a young Member, I probably thought and would have been willing at that time to reduce the margin for shutting off a filibuster to a majority vote. I might have stayed with a normal parliamentary requirement in Europe where the majority shut it off. And I remember the counsel that Senator Williams gave me at the time. He was opposed to the change. He said, "Bob, after 21 years here, I have come to the conclusion we make more mistakes in haste than we lose opportunities in delay. If something should pass, it will one day pass." He said, "It may take two or three Congresses, that is not a long time in the history of the Republic, but if something shouldn't pass, then the right to delay it is not only a legitimate right, but it is probably a wise right."

I have, indeed, changed my view about the filibuster over the years. I think if I had my choice now, I would go back to the two-thirds present and voting. I do not expect that is going to be an issue, and I do not think anyone is suggesting that now, but I think I would go back to it as one who has used the filibuster on occasion, not on this issue before us, as a matter of fact, but I have used it many times in the area of women's rights and abortion. As I recall on one occasion I spoke for 4½, 5 hours on the floor reading from a book called, "The History of Abortion in the United States," and I have only gotten to 1833 in that book. If necessary, I may even on this bill take up 1834 and onward and go forth with that history, which is something that I think the Senate would really fully want to know about.

So I am prepared to talk, I am prepared to negotiate, and I would be willing to negotiate, reduce spending limits, PAC's out the window, although—as the majority leader is fully aware, and he is a good constitutional scholar—I do not know how you can stop them from spending. We can stop them from giving. I do not know how we can stop them from spending.

Unfortunately, most of the money is spent against rather than for these independent expenditures. But that is an issue for another day, constitutional amendment or something like that. There is nothing we can do by law to stop them from spending.

But I wish the majority leader and the majority party would be willing to consider some other alternative to the spending limits, spending cap, which this side honestly thinks is unfair, and thinks if candidates A and B can spend the same amount, then the favored incumbents and the favorites of the majority party, and as we are neither, would not have great misgivings about it.

Mr. BYRD. Well, I think when we look at the experience that has been gained under the campaign financing reform that took place with respect to Presidential campaigns, that has not failed the Republican party. The Democratic incumbent defeated the Republican incumbent the first election after that. Mr. Carter defeated Mr. Ford the first go around; the Republican challenger, Mr. Reagan, then defeated Mr. Carter. The next time around, Mr. Reagan, the incumbent won. So the Republicans have fared very well under that experience.

Surely they ought to fare as well under campaign financing reform that has a limitation on the campaign expenditures for Senate seats. After all, they have the same opportunities.

I just cannot understand why they would not want to have a limitation on campaign expenditures. They are able to raise more money. That is obvious. They have shown that. They can raise more money than the Democrats can raise.

The distinguished Senator has talked about lowering the limitation to giving $100. There will be all kinds of ways that can be found around that.

Mr. PACKWOOD. How? How do you get around that?

Mr. BYRD. The distinguished Republican Senator knows that his national campaign committee and the people on his side of the aisle are light years ahead of the Democrats when it comes to raising money by mail. They can do it. I say, why not put a limitation, a reasonable limitation, on campaign expenditures? That would be as fair for the Senator's side as it is for this side of the aisle.

Mr. PACKWOOD. I think now it begins to come into focus a little bit. The Republican Party has been much better than the Democratic Party in raising money by direct mail from small contributors. The Democratic Party, probably in terms of the total amount of money they raise, is much more dependent than the Republican Party on political action committee money and big money. There has been enough articles on that now. I think on occasion it is news to the public.

But to put it in the crassest terms, the Democrats have depended upon the fat cats, the Republicans not nearly to the same degree. But we raise a lot of our money by direct mail; lots of it, and direct mail is expensive fundraising.

So if what you do is you put a limit on how much can be spent—and I think you can effectively put a limit on how much can be raised because part of the cost of the campaign is the raising of the money—what you do is very effectively limit the Republican's most effective way of raising money which is thousands and thousands of small contributors through direct mail. And the reason you make that very difficult is because we would not be able to afford the cost of raising the money. We have a spending limit. What you do is favor the method of raising money that is the less expensive which is raising it from the rich; raising it from the PAC's. Through a fundraiser, it is a thousand-dollar-a-plate and costs you $25 a plate to put it on.

So of course again that favors the present method that the Democratic Party uses to raise money which is from the rich. That to us seems not only unfair but the wrong way of democracy.

Mr. BYRD. Let us lower the limitations that an independent group or person can give, and put an overall limitation on the total campaign expenditures.

Mr. PACKWOOD. Why?

Mr. BYRD. Why not? Is the Senator saying to me that, in order for the Republican Party to survive, that those candidates who came into this Senate 2 years ago and will be looking to run again in 1992—the average Senate seat having cost $3 million in 1986, and projected to cost $9 million per Senate seat in 1992—is the Senator saying to me that in order for those Senators on his side of the aisle to run a successful campaign for re-election in 1992 they should be forced to raise $9 million on the average to win, and he does not want to put a limitation on such spending?

What are the American people to perceive out of this kind of argument that the Republicans are bereft of ideas, bereft of candidates who are articulate, who are attractive, who are able? Of course, that would be the wrong perception. But the perception is forced to remain that they are so bereft of those attractive elements that are needed to compete for the hearts and minds of the American people that they have to fall back upon money to buy votes. That is not what the Senator would be saying, I am sure.

Mr. PACKWOOD. No.

Mr. BYRD. Mr. President, Senator Jennings Randolph and I ran in 1958 for the U.S. Senate. Two Senators from West Virginia, both, ran the same year. I ran for the full term, and he ran for the unexpired term. It cost us a combined total of around $50,000, and $50,000 for two Senators, two Senate seats from West Virginia. In 1982, when I ran, it cost me almost $2 million. In 1986, it cost on the average, for the Senators, almost $3 million. This is a money chase. And we are attempting by this bill to limit campaign spending.

I will tell you as the majority leader, I will tell you one reason why I would like to limit campaign spending. I would like to limit the time spent away from their Senatorial duties by Senators who want to remain in public office and who are having to run hither, thither and yon, from East to West and South to North, back and forth, and over and over again, living in and out of suitcases, staying away from their families, staying away from their work in order to raise money. Money. Why not put a cap on that?

Mr. PACKWOOD. I would respond again. Let us take the $9 million, hypothetical $9 million that it is going to take to run. Let us take a hypothetical of a $100 contribution limit, although, as the Senator is well aware, the contribution is much below the maximum limit because everybody is not giving the maximum. You raise money by direct mail; your average contribution is about $20. That may be off $1 or $2, one way or the other.

In order to raise $9 million with a $100 contribution limit, you assume an average contribution of $20, you have to have 450,000 donors. As I indicated earlier to the Senator from Nebraska, I think 90 percent of the Senators have to raise the bulk in their home State.

I put this to the majority leader: I think it would be good for democracy if you in West Virginia, I in Oregon, and the Senator from Nebraska had about 400,000 contributors in our home States give $20 apiece. That is not bad; that is good. I do not think we should put a limit on Nebraskans or West Virginians being able to give $20 apiece, and it is a good test of whether or not we have a good organization. You and I cannot go out and ask 400,000. We could not do it. There is nothing wrong with encouraging that many people to give.

We used to have a tax credit which encouraged people to give, and unfortunately we got rid of it. I think that rather than public financing and taking money out of the Treasury for candidates, if you want to have public financing, we would do better to go back to the tax credit of $50 or $100.

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

Mr. PACKWOOD. I yield.

Mr. BYRD. The Senator makes two points I would like to address.

First, he talks about public financing. The so-called public financing we are talking about is the voluntary checkoff by taxpayers when they file their income tax forms—voluntary, of their own free will.

Milton referred in "Paradise Lost" to man's freedom of the will.

Taxpayers make this checkoff of their own free will. Here, I give a dollar. Here it is. Nobody held a gun to my temple. That is of my own free will.

The distinguished Republican leader last year was very much against public financing, but he is now accepting it. That is the law and he is acting under it.

Mr. PACKWOOD. Let me ask——

Mr. BYRD. Let me continue my point. The Senator said he would yield to me, and I will not take advantage by being overlong.

That is public financing, and it has proved its worth, its merit, in the Presidential campaigns.

We are talking about a voluntary checkoff. Senator BOREN and others have modified the original stand twice, so that it is merely there now as an enforcement mechanism. It is an insurance feature.

Now, the next point: What the distinguished Senator says sounds good. Goodness, I would like to have him as my lawyer in a case before a jury, with his persuasive eloquence. Make it $100. Sounds good. All you would have to do is have 450,000 contributors. Are you kidding? In West Virginia? With a little over a million registered voters, Republicans and Democrats? You are going to get 450,000 contributors to give $20 each in West Virginia, to raise that average of $9 million? What about Senators from States that have populations of more than 2 million?

Mr. PACKWOOD. I say that the Senator is making my point. I do not think I could raise $9 million in Oregon, either.

What is the population of West Virginia?

Mr. BYRD. 1.9 million-plus.

Mr. PACKWOOD. Oregon has about 2.5 million.

So you could not do that in West Virginia, and I could not in Oregon. With a $20-average contribution, what is going to happen to the cost of campaigns? It is going to go down.

Mr. BYRD. Let me ask the Senator: What is wrong with this bill? Do you know what the limitation on expenditures under this bill would be in West Virginia? Something like $950,000.

Mr. PACKWOOD. From the way the majority leader talks, he would end up, with his contribution limit of $100 and $20 averages, roughly with that amount.

Mr. BYRD. The Senator is going to require 450,000 West Virginians to raise $9 million. It sounds good. It almost swept me off my feet.

Mr. PACKWOOD. I was taking the 450,000 that you said would be necessary at 20 bucks apiece.

Mr. BYRD. I did not say it. The Senator said that.

Mr. PACKWOOD. You said it would cost an average of $9 million to run a campaign if we were going the way we are.

Mr. BYRD. In 1992, under the current system.

Mr. PACKWOOD. I said that with a $20 contribution, you would have to have 450,000 contributors. I do not think I or the majority leader could get that in our States, so the cost of the campaign is not going to be $9 million. It will be much less than that, because we will not be able to get 450,000 contributors at $20 apiece.

Mr. BYRD. The Senator has not answered my question.

Why is he unwilling: Why is the Republican Party, on that side of the aisle unwilling? Some of our greatest Presidents, some of our greatest Senators have been Republicans, and three of the Republicans on that side of the aisle support our proposal. Why is it that the Republican Party, on that side of the aisle, is so dug in against having a limit on campaign expenditures based upon the populations in each of the various States?

Mr. PACKWOOD. I thought I answered that several times in previous speeches last year and this year.

On average, I say once more, incumbents beat challengers. More incumbents win than lose. On average, the majority party beats the minority party, all other things being equal. The Democrats are a majority in Congress, overwhelmingly so in the House, slightly so in the Senate. The Democratic Party is the majority party in this country, on average. Some States more so, some States less.

So the feeling on this side is that if you say here is a spending bill that allows the incumbent in West Virginia, who probably starts with 99 percent name familiarity—it is hard to get 100 percent, but if anybody could, the majority leader may approach 100 percent—starts with high name familiarity, it is an incumbent's advantage.

If we then say that the incumbent Democratic leader, who is well known in a State with a heavy Democratic majority, can now be challenged by somebody who can spend no more money than he can, you almost automatically guarantee an advantage to the incumbent majority party member. That is our objection.

I do not know how the argument can be refuted that more incumbents win than challengers and the majority wins more often than the minority party. Therefore, if we start from a deficit position and a challenging party starts from a deficit position vis-a-vis the incumbent, how is that going to do anything but favor the incumbent?

Mr. BYRD. The Senator is, in essence, saying that ideas and individuals do not count; money counts. That is what he appears to be saying. I do not mean to put words in his mouth. I do not presume to do that.

He talks about the majority leader as being the incumbent and a challenger as not having the advantage that the minority leader has, or any other incumbent. This majority leader has over 11,000 rollcall votes to be picked apart, misrepresented, distorted by any challenger. I have a challenger in the primary; I have a challenger in the fall. The challenger in the primary has no voting record that I can criticize, but I do have one. That may not be an advantage to an incumbent. So there are advantages and there are disadvantages to being incumbents and to being challengers.

The distinguished Senator says that Democrats, on the average, are the majority party. Is that because they have been able to raise more money, or is it because of their ideas? Is it because of the individuals who are running? Is it because of the record, the programs that the Democratic Party has advocated—education, health services, scientific research, programs to help people?

I am willing to let the party stand on its record, on its program, and I am willing to stand on mine. But let us not believe that the Democrats, because they have been in control all these years in the Senate or the House or whatever, it is because they were able to raise more money. They were just able to produce more bodies. More bodies went to the ballot boxes because more bodies believed in the programs that were being espoused by the Democratic Party in the Congress.

I see my friend has left the field, so I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Alaska.

Mr. STEVENS. I have been asked to come and sort of stand in for a while for those who are more actively involved in the debate. I am delighted to be here with my good friend from West Virginia.

I am constrained to say that, in view of the very extreme difference of opinion in terms of limitations on expenditures as far as Federal campaigns are concerned, it appears that it would not be possible to work out the kind of compromise that the Senator from West Virginia seeks. And yet if we look at the history of recent years, the campaign laws that we have operated under have found that the Republicans were able to elect a majority in 1980 and the Democrats were then able to elect a majority in 1986.

An old friend of mine used to make quite a point out of the fact that if the watch is not broken, it should not go to the repairman. This law is working. There are some severe attacks against it but, as I have analyzed those attacks, they are not against spending limits per se. They are against some of the abuses of the system which we have indicated we are perfectly willing to work on and attempt to resolve.

We, for instance, are very concerned about soft money. I think all parties involved in the election process ought to be concerned about soft money.

There are several problems that are involved in the current law in view of the inflation since the time that the limits were put into effect. We have strange circumstances now that individuals can contribute $1,000 per election. The political action committees can contribute $5,000. We have suggested that that be equated and that the political action committees be limited to $1,000 and the individuals be limited to $1,000. That would make the task of raising more money more difficult. It may even be that, if the amount the political action committees could contribute were reduced down to 20 percent of their current level, that the actual money available for the expenditure would be limited

and achieve a portion of the goal that the majority leader seeks.

But, in my judment, we ought to look at some of the very basic problems and some of the solutions we were prepared to agree with. I was in hopes—and I am still in hopes, because I am meeting with the Members on the other side appointed by the majority leader, attempting to work out some agreed solution to the overall problems of S. 2—that we can deal with soft money.

Mr. President, a friend of mine, who is in the labor movement, the other day said to me there are three things that an individual can do in this country to really be active in campaigns short of becoming a candidate. One is to vote—and we hope that more people will vote; the second is to participate in the election process; and the third is to help finance it.

This bill, obviously, does not seek to put any limits on people voting. We ought to encourage more, as I said. It does not do a thing about the involvement of individuals in campaigns. It seek to limit the amount that people can contribute.

In some areas of my State, we have a great amount of voluntarism, substantial participation in elections. In other portions of the State, those portions that are more related I would say to the metropolitan type economics, where people have apparently less time to participate in politics, we have greater financial support.

What this bill does is it says there is really a necessity to put greater restrictions around the financial participation in campaigns and it completely ignores the personal aspects of campaigns.

We have sought to reduce campaign costs and spending. We have sought to control soft money. I, personally, made a comment about that last year, about the incidence of soft money in the elections of 1984 and 1986.

I firmly believe that we ought to agree now—even if it was passed this year, it could not affect this year's election; we are talking about the 1990 election probably and in all probability it really would not have a real impact on elections until 1992—and what we ought to do is to see if we can get a bipartisan group, both in and out of the Congress, to get together and see if there is any way that the limits that the other side seeks to impose could be imposed consistent with the difficulties that that would place upon those who rely more upon financing of campaigns than they do upon the individual participation of people in campaign activity.

Senator GLENN and I have just been through a series of hearings concerning the problems of transition for the new President this fall. One of the great problems we have was what do we do in terms of putting a value upon the voluntary participation of individuals who just want to help that newly elected President, to be part of a transition team, to provide people who have expertise and knowledge to prepare briefings on particular issues, to attempt to work out the transition for the Presidency.

The strange thing is we can come closer to having an agreement as to how we would value that volunteer activity after the election than we can before. We have no way to value volunteer activity before the campaign.

As a consequence, when we place limitations on the expenditures of dollars in a campaign for someone whose campaign is built upon an advertising structure, a different type of get-out-the-vote campaign than one that is based solely on voluntarism and individual participation—incidentally, Mr. President, I prefer the latter, rather than the former—but there are people whose circumstances are such that they have to rely, their communities are such they have to rely upon dollar expenditures. Where that exists, to not value the volunteer activity and to put a limit upon the activity that can be financed through cash contributions is tilting the playing field. It is not a level playing field and in my opinion we have to do something about it.

I would prefer to have a commission take a look at the overall concepts of financing in both limits on contributions and expenditures and the method of participation in Federal elections by individuals and see if a study would bring to us some new innovative ideas of how to structure Federal campaigns.

In Britain and in Canada, one of the ways they structure them is they prohibit any kind of campaign activity before a specific date prior to the election. We do not practice that. I make no bones about the fact that I am not up until 1990 and I am constrained to start raising funds now for that campaign.

In my last election, as I told somebody the other day, I think I spent 50 weekends away from my family, raising money for that election. And then I spent a substantial number of weekends away from my family participating in the election process, traveling back and forth to my State.

I see my good friend from Nebraska is here. He can get home and back in the same day. I could not do that, to Alaska. In order to get home to campaign, it takes me 12 hours from my home here to my home up there or from my office here to my office up there. And that is just to begin with.

Once I get to my State, I can travel 2,000 miles to the west, 1,200 to the east, about 1,000 to the north, or 950 miles south. I can travel further after I get home than he has to travel to get home, Mr. President. And yet this bill would equate my problems with his in terms of financing, and would attempt to impose the same kind of expenditure limitations on me as it would on him, despite the fact that he could drive home if he wanted and be home tomorrow.

If I started driving home today, I would be home 6 days from now.

I think the problem with this bill is it is attempting to put national standards on campaigns, both from the point of view of campaign activities, campaign expenditures, and restrictions in terms of what the national ethic ought to be in campaigns rather than accept the fact that disclosure ought to be the key word in terms of national campaigns.

We can very easily limit the amount that we can receive from a particular source. That has already been done. We have limitations on political action committees, limitations on individuals. I am one of the few and I think the distinguished occupant of the chair was also here at the time that we passed a series of laws, one of which was ruled unconstitutional by the Supreme Court. The case was brought by a former Member from New York, Senator and now Judge Buckley. I was disturbed at that time that the concept of the expenditure limitations was, in effect, knocked out by the Court decisions.

But now, as I look at what has happened since that time, the rapid development of technology in the fields of electronics, the new methods of advertising, I wonder, sometimes, if we could have lived with the law that the Supreme Court declared unconstitutional in part. Had the Court ruled otherwise, what would we have done with those people who could afford these new technologies, but we would have been living in a financial straitjacket at the same time?

Had the Court not ruled as it did in the Buckley case, this Senate would be filled with either total paupers or multimillionaires, and there would be none of us in between because there would have been no way for people to have any kind of financing activity in the normal sense of the development of the political process since that time.

I believe that the offer we have made to prohibit bundling, to limit independent expenditures, to tighten controls on party and special interest campaign activities, to control soft money spending, to reduce the impact of what we call millionaire spending, to give an opportunity for a candidate who faces the expenditure of personal funds by a candidate who is able to spend only his personal funds—I do think we all agree that there is a defect in the current law even after the Buckley case in that regard—and to deal with the limitations on PAC spending, that we have made an offer

that is worthwhile and ought to be reviewed.

The issue that separates us, and it will continue to separate us, is the issue of limitations, total limitations on campaign spending. That, as I said, attempts to put into an individual, subjective, State by State campaign an additional standard that is unworkable. It assumes that a State that has the same population as mine, Vermont, roughly, would have the same campaign expenditure problems that I would face in Alaska yet my State is one-fifth the size of the United States. We travel primarily by air. We deal with individual television and radio markets and not a statewide market as a Senator from Vermont would. It is just totally unfair for us to face a national standard with regard to campaign activity in Alaska that is designed for some mythical standard operation throughout the United States.

Similarly, we do not have a primary concept like the South does. I find it very interesting that this proposal sort of overlooks the differences in the United States geographically, brought about by the influence of the primary process, where one party or another is predominant. That means, in effect, that there is one campaign, not two. In our State there are two: the primary and then the general. In a State that has the dominant party, the primary settles the election. This bill does not reflect that at all, nor does the concept about campaign expenditure limitations deal with it as it should.

Mr. President, I am saddened by the continued difference in the Senate over this bill because I think we could agree, now, on a campaign reform proposal that could actually apply this fall. I am certain we could devise one that would be in effect by 1990 and work and improve this system. But if we are to continue to battle over the question of whether expenditure limitations are the sine qua non, the essence of a bill without which the majority will not support the concept, then I think it is going to be a long, long debate.

The PRESIDING OFFICER. The question is on the amendment.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators answered to their names:

[Quorum No. 4]

Armstrong	Byrd	Stevens
Boren	Exon	
Burdick	Packwood	

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed——

Mr. PACKWOOD. Mr. President, I was going to move that the order for the quorum call be rescinded.

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. 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 Indiana [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Nevada [Mr. HECHT], the Senator from Nebraska [Mr. KARNES], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Virginia [Mr. TRIBLE] are necessarily absent

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The result was announced—yeas 71, nays 18, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—71

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

NAYS—18

Bond	Helms	Quayle
Chafee	Kasten	Specter
Cohen	Lugar	Symms
Durenberger	McCain	Wallop
Evans	Murkowski	Weicker
Grassley	Nickles	Wilson

NOT VOTING—11

Biden	Hecht	Pressler
Dole	Hollings	Simon
Gore	Karnes	Trible
Gramm	McConnell	

So the motion was agreed to.

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

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, as we struggle with S. 2, I inquire at this time: We have had a vote which is instructive of perhaps where we are headed. We have people on both sides of the aisle interested in where we are headed with regard to our activities on this day and through the week, and all of us know that the committee of eight—the four from the Democratic side of the aisle and four from the Republican side of the aisle—have been meeting. I understood from Senator BOREN that they were ready to continue to discuss things. I understand that Senator MCCONNELL, who represents that group on this side, indicated that they wished to discuss it further. I do not know that they have a time set or what.

We do not consider ourselves at this time—I speak on behalf of the opponents to S. 2—as being in a filibuster. Senator PACKWOOD is next to speak, and he will speak for 45 minutes or perhaps an hour, or 35 minutes. His is not a scheduled tag team match at this point with regard to filibustering. We are prepared to do that.

Just as a courtesy—and I know that the majority leader is very attentive to the membership—I ask what the majority leader foresees with regard to our activities on this bill.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader for his question.

The objective here is to reach a vote on the pending question and on the bill itself. It is obvious that our friends on the other side do not intend to let the Senate vote, or at least that has been obvious up to this point.

I am not pressing to enter a cloture motion at this time, but I do think we ought to get on with the debate on this measure and, once there is no inclination to debate, the Chair will put the question. We tarried with this bill for a period of many months last year, off and on, and at this point this year

we have been on it 5 days, without any interruption for other business.

So I would have to say to my good friend that it is my intention to have the Senate stay in tonight until it reaches a vote, if it can do so; and if it cannot do so, then we will simply stay in, and Senators should debate the measure.

I think we ought to invoke the two-speech rule. Senators have had plenty of time to speak on this measure. There have been times today and yesterday, especially yesterday, and last week, when the Senate was on this bill, that quorum calls occurred, and Senators did not seem to be in a great hurry to come to the floor and speak on the bill.

If Senators want to speak on the measure, they have that right, and I think they should do so. But if they do not wish to debate it and they do not seek recognition, then the Chair will put the question.

On the other hand, I do not think that the Senate should be in here tonight—midnight, 1 or 2 o'clock in the morning—hearing speeches that are not germane to the subject matter. Of course, there is no rule on germaneness at this point. The Pastore rule has run its course for this day, and the Senate is not operating under cloture. That being the case, since there is no rule on germaneness at this point with regard to the subject matter of speeches, I think we ought to invoke the two-speech rule.

If Senators want to use one of their speeches in talking about Afghanistan or country music or whatever, they may do so; but that leaves only one speech. When they have spoken twice, then that is all on the pending question. In this way, I hope we can move the Senate along to a decision, to a final vote on the pending matter before the Senate.

So I say to my friend that we will be in session tonight. If Senators have something to say about the pending question before the Senate, they have a right to say it. They have a right to stand on their feet as long as they want to stand, if they want to speak 2 hours, 4 hours, or whatever.

At this point I am proposing that we have the two-speech rule, that we invoke it; and of course Senators know that if they sit down and do not seek recognition, the Chair will put the question. Everybody knows what his rights are, and everybody, of course, can work within the rules.

Last Friday, I indicated the possibility that there would be all-night sessions, and yesterday I did so again. If Senators want to talk, they can talk; but when they have finished talking and debate had ended, then the Senate ought to vote.

I hope I have answered the distinguished Senator's question.

Mr. SIMPSON. Mr. President, I do understand and grasp the significance of all that.

Let me just say that this is not quite a raw partisan issue. Two Members of the other side of the aisle are on our side. Three on this side of the aisle are on the other side. So it is not quite one of those usual, direct, rip-them-up partisan issues.

But it does look as if we will continue into the evening hour and if so we are ready to do that on this side. We are ready with debate and perhaps quorum calls as well.

I certainly respectfully say that I personally cannot see the point in any way—I respectively say this as I would in private to the majority leader—in going through the night. We will not accomplish anything except distress of the membership on both sides of the aisle and nothing more, because we have a situation where we cannot vote on the bill in its present form for the reasons that you have heard in some very pure debate in the last few days, good debate, thoughtful debate, some of it plain partisan, some of it seemed protective of the Republican minority.

We cannot change the bill by amendment. Our amendments would be voted down by the same party line vote that has characterized seven cloture votes that we have had on this measure last year.

So we know what happens when we relinquish our position. Everybody else should know. There is no trick involved. We are presenting it that way, in an honest way. This is an issue for many of us here, especially southern Republicans and other Republicans. You have heard the arguments that this in effect will create a situation where we will not ever attain majority status in this body for many years. Now that is the issue. So our only option is to force some negotiation on the bill itself. We have not even tried to force that. That is going forward. It is still going forward. We can only do that by exercising our rights as a minority to keep this bill from being finally acted upon.

We are going to go to the two-speech rule, which in my time here in 9 years has been honored more in the breach than in the observance, and which is routinely ignored. If that is suddenly to be enforced then we must do things on our side which are just as arcane and wasteful and tedious as that, among them, changing the question, and have to make most of precedent to postpone to a time certain which certainly can be done not only ad infinitum but ad nauseum.

So in our honesty with each other, which I enjoy with the majority leader, we are ready. We are ready to go all night, we are ready to go all day. But I cannot for the life of me understand how that can be productive because everyone here knows exactly what the orders are and everyone here knows exactly what the vote will be on cloture, and that is the way it is.

I just think we ought to keep that to the forefront. We have not been destructive or disruptive in these past weeks on this side of the aisle.

I commend the leader. They were tough issues, Grove City, Contra aid. We have smoked through those things and did our work. This is one that has ensnared us and high centered us seven times and No. 8 is just around the corner. There is not anyone who has any kind of information on the bill who knows that this is not going to be the next result.

So, as I say, we are prepared and we will have our sturdy SWAT teams and people on vitamin pills and colostomy bags and Lord knows what else we will have to have to improve our ability to stay here. But I would never, and this is the harsh thing, I would never want to impinge upon the prerogatives of the leader any more than he ever wanted to do that when Senator DOLE was the majority leader, but if we must in this time of extremity for those who feel so strongly on this issue, then I would have to do that and notify the leader that that was coming and that would be through the making of those types of motions; rather unfortunate. I would not like to be doing that.

But this is the lay of the land. I think it is important that we just not talk about corruption and bloated treasuries and, you know, all that stuff. Let us talk about we know how you get elected and you know how we get elected and if you will give up some, we will give up some. Until that happens, we will just go on this feckless, sturdy approach into the next week and the next week, into the recess, and we are fully prepared to do that because of the deep feeling that is generated on this side of the aisle, and I share that with the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished acting leader for his frank appraisal of the prospect for reaching any agreement on this bill, and I also appreciate his candid statement as to what the minority party will do to keep the Senate from coming to a final vote on this matter. I expect the minority party to use the rules and the precedents. Of course, as the Senator has stated, the question can be changed. Of course a motion can be made to postpone action on the pending question until tomorrow or until next week, and then a Senator will not have spoken twice on that question. I am aware of all that.

What the distinguished Senator is saying is that the minority party is ready to resort to the use of the rules—which they have a right to do—but they are determined not to come

to a vote on the question as long as it contains a limitation on overall campaign spending, and as long as it contains a limitation on the aggregate contributions of PAC's, which may be received by any candidate. I do not find fault with their right to do this.

But I do feel that it is the responsibility of mine to attempt to do the best I can to focus the attention on this question and on why the Senate cannot act on it. We could go on in the casual way that we did last year having a cloture vote in a day or so, and coming in at 9 and finishing at 5 and we could do that and we would not get anywhere again. We tried that approach. It failed. We saw that the minority party in the Senate was absolutely opposed to the limitation on expenditures. We feel that the American people support us in this and we feel that we have to do our best to try to get to a Senate vote on the bill.

The acting leader is exactly right when he talks of the cooperation that he and others on that side of the aisle have given on Grove City and other measures, and that time will come again; I am sure of it.

So I am not going to carry any animus, any ill will beyond this battle, and I am sure that my colleague and friend on the other side also will not. But his party is taking a determined position on this. They are absolutely opposed to the fundamental principles that we on this side believe are absolutely necessary if we are going to have genuine campaign financing reform. We do our best; they do their best. And we will all accept the outcome.

It may be that we will not win. But the American people will know who kept the matter from going to a vote. Let them make the judgment in the long run. Perhaps this idea will not prevail today or tomorrow. But I believe that it is an idea whose time has come, and I believe that, sooner or later, the American people are going to make their representatives in this body understand that they want this progressive change.

I ask unanimous consent that the speech made by my distinguished friend across the aisle, the acting leader, not count as a speech under the two-speech rule.

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

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me conclude if I can, because I would have hoped that we would not have reached the aspect of, you know, the American people. That is not the issue here. There is not a soul in this body that does not want campaign financing reform. Now that is the issue. And to put an unfortunate spin on this that somehow those of us on this side of the aisle are not interested in campaign reform—this bill started as a PAC bill, to limit PAC's. And there is nothing in it right now to limit PAC's.

Our proposal, as presented by this side of the aisle—and this is not a partisan issue; that is to say, there are two Democrats on our side and three Republicans on the other side—we are ready to limit PAC's. We are ready to go from $5,000 down to $3,000. Some want to go to $1,000. Some want to get rid of PAC's on our side of the aisle. So, please, I hope that we will not find that this side of the aisle somehow is missing the fundamental principles of what we are all trying to do.

I think it is very important to recall here that in the minority we are doing nothing more than the very able minority under the then minority leader who is now the majority leader. There is no one more skilled in the ability to use the rules of the Senate to protect the minority than the present majority leader—no one. There has never been more of a master of that.

So now we are doing it and we are doing it within the rules and it should not have anything to do with the American public or perceptions because there is not a soul here that I have talked to of the 100 of us that is not interested in doing something with regard to campaign reform.

But I will tell you this, one of the things that is generating throughout the country is the ad of Arch Cox and Common Cause. That is the full-page fare at every breakfast table of most districts. And if this bill passes, you can have more of that for breakfast and it will never be even on the scorecard. That is what we do not like. That is called cheap shooting. That is called independent financing, aside and apart from the real issues of this.

Now the American people, they are sobering up. They are hearing this. My mail room is not breaking down any more. I told them that Arch Cox's ad was a cheap shot because I told them I was in favor of campaign reform and I told them under S. 2 that kind of expenditure would just be off the table.

Now they will know the true story on campaign reform if they will know all of it, because these ads that are appearing throughout the Nation are not models of accuracy. They are self-serving and merely stirring people up. I thought we had enough of that in an incident that happened here in this Chamber a few months ago and I will not even target it.

But if that is the way we are going to run the U.S. Senate on ads in papers, then certainly we have missed something with regard to the remarkable stability of this deliberative body.

So those are the things we are talking about. That is what we are speaking of. It means a great deal to us and to two of your colleagues on that side of the aisle. And I am ready to talk about all things. These fine gentlemen we have appointed are ready to talk about all things—aggregate PAC limits; no PAC's. I have not heard anybody on the other side of the issue talk about no PAC's.

But, if we are talking about the rules, then, of course, we remember that the majority is using the rules to force this measure upon us just as diligently as we are appropriately using the rules to avoid having it be imposed upon us. That is called legislating and it is called fairness. The American people understand fairness. And to this point on this issue we have been treated very fairly.

But we are at a point where there is not a soul here that needs to refer to anything but the need for reform. And we are all ready to do that. But, as I say, it is a tough point. The pushing of the button is simply we know where you get your scratch and you know where we get our scratch and neither of us like it. And that is the way it is going to be. If that is the way it is going to be, then we are going to hang here for a long time with all of the skills and abilities we possess under the rules and wait a long, long time because we know that under cloture it will be eight out of eight instead of seven out of eight.

Mr. BYRD. Mr. President, I apparently got under the skin of my good friend. I perhaps should not have referred to the American people, but I happen to believe that the American people want to see an end of the "money chase" and I happen to believe that in due time we will all see a change in it. That is what we on this side are striving to bring about.

My good friend says that if this bill passes, then every day for breakfast they will have a bit more of Archibald Cox and his ad.

Well, you know we can say if this bill does not pass, then every day will be just a continuation of the aristocracy of the moneybag and an intensity of the money chase. The money chase is the predominant thing that guides us in our efforts here and interferes with us in our work.

I do not think that the distinguished Senator said anything that would necessitate further response from me. The distinguished Senator asked what we might expect for the evening and I have responded.

He has indicated that his party is ready to resort to the rules and the precedents to avoid coming to a final decision on this matter. The Senator has that right.

I think we ought to know that the people on this side are ready for a vote. I am going to yield the floor. If anyone wants the floor, they can have it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I did not know the majority leader was going to invoke the two-speech rule. Of course, if that is going to be the situation, we will have to accommodate ourselves to live with it.

Would the majority leader be good enough to at least let me ask unanimous consent that the previous speeches I have made today—because I did not know you were going to invoke this—not count against the two speeches?

Mr. BYRD. Yes, I would have no objection to that. As far as I am concerned, we could go for another 6 hours without invoking it. But at some point I think we should invoke it because, otherwise, Senators are just going to come to the floor and take the time of the Senate in making extraneous speeches. If we are serious about a vote on this matter, then we ought to be serious about addressing our remarks to this question.

When Senator Russell and the Southern bloc used to filibuster against the civil rights bill, they stuck to the subject. They were well organized, well disciplined. I hope we will stay on the subject as much as possible and get to a decision on the bill. I am suggesting that we may want to invoke the two-speech rule soon.

Now, if this seems to get under the skin of my good friend from Wyoming, this is the rule and it can be resorted to. It can be invoked. Of course, as Senator Russell told me one time, for every rule, there is another rule.

So, yes, my friend can move to postpone to another day and that will be another question before the Senate. That will not catch this Senator by surprise. I may try to table such a motion. So, as Senator Russell used to say, for each move, there is another move.

I am not going to be rancorous about this. I do not want to be rancorous about it. I will use the rules to the extent that I can to bring this matter to a head. And the distinguished Senator, the acting Republican leader, can do the same on his side of the aisle. If he does not want to bring this matter to a head, if he does not want this Senate to act on this question, he has every right to resort to the rules and precedents to accomplish this end.

I am not going to be angry with him about that. The rules in this body favor the minority. They were meant to favor the minority to prevent the majority from running over the minority. That is why there is a Senate. That is why this Senate ought to remain a Senate and not become a second House of Representatives.

I am very cognizant of the rights of the minority and I will engage in this battle in the very best of spirit and good will and if, in the end, we have done our best and we do not prevail, the Senator from Wyoming will have my good will, I shall shake his hand and put this behind me and go on to the next item.

But I am not disturbed when I hear that the minority is ready to dig in its heels and ready to have a shootout at the old corral and that, if the two-speech rule is invoked, they may resort to something else. That is all right. They can resort to whatever they want to resort to. The rules are here, and precedents.

But the idea is to get a vote. I would be happy to enter into a time agreement and vote on final passage after 3 days of debate and allow such and such amendments to be called up. Perhaps that is a way out. I do not relish staying here all night. I am not happy about that at all. It will be as hard on me as on anybody else.

But let us get on with the debate. I am ready to yield the floor, ready to shake hands with the distinguished Senator from Wyoming. I hope he has no hard feelings because I mentioned the two-speech rule.

Mr. SIMPSON. Indeed not.

Mr. BYRD. It is there in the book. I am not creating anything new. And if the minority wants to resort to whatever tactic, dilatory or otherwise, to keep this Senate from reaching a decision they have the means to do that.

The American people will know who is doing it.

The majority here is trying to press forward to a conclusion on a bill that is important. Senators have a right to disagree with the bill; to vote against it.

I have no objection to the Senator speaking for the moment without the invocation of the two-speech rule. I am willing to go, as far as that is concerned, until midnight without that.

I have the utmost patience. I have always been able to demonstrate it and I am happy to demonstrate it again.

But I am saying that there will come a time, if not at this moment, when Senators who come to the floor and talk about the introduction of bills—they have a right to do that because if the Pastore rule has run its course and they want to count that as one of the two speeches, it is perfectly all right. But we have to narrow this thing and continue to narrow it, if we can, so that the focus is on the matter that is before the Senate. Hopefully, we will reach a decision one way or the other on that.

The PRESIDING OFFICER. The Senator from Oregon had requested unanimous consent that his previous speeches not be counted under the two-speech rule.

The majority leader indicated he did not object. Are there other objections? Are there other objections to that unanimous-consent request?

If not, it is so ordered.

Mr. PACKWOOD. I would be happy—I will yield the floor for the moment and let the acting leader talk before I do.

The PRESIDING OFFICER. The Senator from Oregon—are you yielding the floor?

Mr. PACKWOOD. I will yield the floor until the acting leader is done.

The PRESIDING OFFICER. He has yielded the floor until the acting leader has completed his presentation.

Mr. SIMPSON. Mr. President, I thank the Senator from Oregon and I will just take a moment. We can do this exercise with civility, and I pledge to do that and we will, I think, assure that it will be done. We will not only shake hands now but we will shake hands when we finish. That is the way the system works.

It is a curious system; you do not have time to savor victory or anguish in defeat. It moves fast and I like legislating. That is something I enjoy and this is legislating and this is the way it is done. It is kind of ghastly to watch but it is all legislating.

Indeed, I look forward to trying to do it with a good spirit of civility and good humor and good taste.

So, with that at least everyone should be informed as to what the schedule will be. We need not review that once again. We will be on call.

So I yield now, yield the floor—just yield the floor, to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank the Chair and let me assure the majority leader that I have no intention of deviating from the subject tonight into some other subject that I threatened earlier I might discuss at length. I might do that on another day, another time, but at the moment I will confine my comments to campaign finance.

So that everyone, I guess, understands the futility of what we are doing, this is what we are up against eventually, and the majority leader was right and the majority leader is perpetually generous in his courtesies to me when he said he will not be taken by surprise. No one need worry. No one has ever taken the Senator from West Virginia by surprise since I have been here. He is a master of the rules. It is just that we each understand the rules and how to attempt to use them to our benefit.

Now, as to a filibuster, per se, he says all we want to do is get to a vote. My first experience, actually, with the filibuster was not so much the rules change that we made in 1969; that we made. But the majority leader will recall, the distinguished senior Senator from Wisconsin, Mr. PROXMIRE, filibustering on SST right up until the time that Congress had to adjourn. I

suppose that was January 2 or January 3, or whenever it is that we had to go out. It was very close to midnight.

As I recall, the House had passed the SST bill; this is Government funding of the supersonic transport. The argument was, if we did not do this, the British and the French had their Concorde, America was going to fall behind in terms of technology in space, and we just had to put many billions of dollars into a government-financed supersonic transport. I think there was a majority to pass it in the Senate. As I recall it had passed the House. I cannot recall what the position of the President was, whether he would have signed it or not.

But the Senator from Wisconsin thought it was a terrible idea, a waste of money. There were arguments about bad for the environment, a whole host of arguments and the Senator from Wisconsin very well filibustered the issue of the SST, the supersonic transport, up until midnight or so close to it that it did not make any difference, on the last day of the second year of the session and we had to go out at midnight because the Constitution said that was the end of the Congress and the new Congress came in the next day. And that was a filibuster.

In retrospect it turns out that the Senator, the senior Senator from Wisconsin, was right and, in haste, we might have passed a bill putting forth hundreds of millions or perhaps it was billions, I cannot recall, of money to develop an SST so that the British and the French did not beat us, to be first with the Concorde.

How well I remember what the argument was. The plane will fly 1,300 or 1,400 or 1,500 miles an hour. For years, America has been paramount and primary in aerospace. And we must not let the Europeans or anyone else get ahead on the cutting edge of what was to be this new development.

Now it is 18 years later, the Concorde is not an eagle; it is a turkey. There are a few of them that have been built. They fly at a loss every time they go up in the air. They are not being built anymore. It is now ironic that if we are having any serious competition from the British and the French it is not on the Concorde, it is on the airbus, which is a much slower plane with a bigger body and it runs reasonable competition with our DC-10 and Lockheed 1011's. But the Senator from Wisconsin was right and he used the filibuster to stop something that he was convinced was wrong and by and large the entire environmental community supported him. So that was a filibuster wisely used.

Are there filibusters unwisely used? I suppose so. I guess it is in the eye of the beholder because anyone who conducts a filibuster conducts it only because the person is reasonably convinced that, if put to a vote at the moment, the person conducting the filibuster would lose.

If you thought you were going to win, you would not conduct the filibuster. You would put it to a vote. But you are convinced that you have enough time to speak to the public and enough time to inform editorial writers and enough time to appear on "Meet the Press" and "Face the Nation" and mornings with David Brinkleys and enough time to educate the public that you will be able to change public opinion.

Indeed, on the SST that delay caused that effect. We never financed it. It turns out to have been a wise decision.

I think deeply that the majority is wrong on the public financing of campaigns. Make no mistake, there is public financing on this bill. There are postal subsidies. A postal subsidy is public financing. Call it what you want. It may not be straight out of appropriations of "Here's money to the candidate." It is back-door public financing.

We eventually end up subsidizing postal rates, and if you say to the candidate, "You can have reduced postal rates," that is public financing. Then we compel the radio and television stations to give away time to the candidates at a very low amount. That is not exactly public financing. This is just to say we will take it out of the hides of the radios and broadcasters.

Then there is the provision, which is clearly going to come to the floor, of straight-out money to the candidates because anyone is foolish if they look at the bill, as it is currently written, and thinks that there is not going to be a situation where one candidate goes over the spending limit and the other candidate gets money, and we all know that is coming.

So in fairness, I think even most of the majority party would prefer not to have public financing if they could have the expenditure limits without a public financing. It is just that they are caught on the horns of a dilemma because of the 1976 Supreme Court decision in Buckley versus Valeo in which the Supreme Court said you cannot limit spending, and the only way you can limit it is to hold out the carrot of public financing, and if the candidate takes the financing, then the candidate is limited in his spending.

It is unfortunate that we do not learn by past experience. First, if I might, let me quote from the Senate Watergate Select Committee because, early on, the majority leader and others made reference to the scandal that grew out of the Watergate and the campaign reforms that grew out of Watergate, and that this bill we now operate under in financing of the President grew out of Watergate.

Let us read what the Senate Watergate Committee recommended:

Recommendation No. 7: The commiittee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

I am continuing. That was a quote of the Committee of Jefferson. Everything I have said so far is actually quoting the committee, and I continue quoting the committee:

The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically and guaranteed by the first amendment.

Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the select committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.

Here is the critical point:

What seems now appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

This is a quote from the committee that investigated Watergate and all of the abuses that stemmed from the 1972 campaign.

Second, let us go to a report 8 years later, and this report was the findings of the John F. Kennedy School of Government at Harvard. They were asked by the Senate Committee on Rules and Administration to study the post-Watergate campaign finance reforms and to recommend changes.

Now, I suppose in retrospect, maybe the Rules Committee, or at least a majority on the Rules Committee, wished they had followed the admonition that all trial lawyers follow, and that is, you do not ask a question to which you do not know the answer because you might get the wrong answer, and then you wish you never asked it.

In any event, the Senate Committee on Rules and Administration asked the John F. Kennedy School of Government at Harvard to study the method of Presidential campaign financing.

This is public financing of the campaigns. What did they find out?

Among the problems of the post-Watergate reforms, the most troublesome are related to the attempt to restrict the money spent in Presidential campaigns.

Candidates are not allowed to spend enough money, and the expenditure limits have spawned a whole series of serious problems of definition, allocation, and enforcement.

On the other hand, the effort to control total spending has not succeeded. Those involved in Presidential politics are able to raise and spend unlimited amounts of money through conduits other than the candidates' campaign committees.

Let me make an aside here. This is not quoting part of the report, but I want to make sure that those listening understand what that paragraph means.

What the Harvard study was saying is this: You say to a Presidential campaign, you can only spend $20 million or $30 million. That has not resulted in that much money being spent and only that much money being spent.

What it has resulted in is organizations totally outside the candidate's committee spending money for a candidate or spending money against a candidate so that the total amount of spending in Presidential campaigns has not gone down. As a matter of fact, it has risen as fast since we passed public financing of the Presidency as it had risen before. In many cases, it is what we call soft money, money that does not even have to be reported as campaign spending; although in word, deed, and fact, it is campaign spending.

It is money often spent by large membership organizations to get out their members to vote after that organization has endorsed a candidate, and to get them out to vote for that candidate, and yet it is done without any connection with the Presidential campaign and it is not even reported. It is done with organizations running registration drives to register voters, interestingly, run only in areas where they know the overwhelming bulk of the voters likely to be registered are going to support the candidate or party that the organization prefers.

These are usually run through what we call 501(c)(3)'s 501(c)(4)'s or 501(c)(5)'s. These are tax-exempt organizations receiving money and paying no taxes. They are charitable organizations, in essence, undertaking partisan political activities and not reporting the money and still claiming to be charitable organizations.

Let me go on back now, continuing to quote the Harvard study.

To make matters worse, most of the other means through which money is now being poured into Presidential politics are inherently less accountable to the electorate and should not be encouraged by the campaign laws.

Thus, our most important recommendation [is] to eliminate the limitations on expenditures made by the candidates. Spending limits have proved undesirable for a variety of reasons:

Failed to equalize resources of different candidates;

Failed to curtail the growth of money in Presidential politics;

Failed to shorten the overall length of campaigns;

Failed to reduce the emphasis on early primaries;

Intrude unduly into campaign strategy;

Created thorny problems with arbitrary definitions, creative accounting, and entangled enforcement; and

Fostered disrespect for the law.

That is what the John F. Kennedy School of Government at Harvard says the present method of electing our Presidents has resulted in. And what the majority leader, the Senator from Oklahoma, and the others who are pushing this bill say is, we want to expand this system to the entire Congress.

Think to yourself again if you are interested in America, in power, if you want to influence government, and if you want to have a control of government.

You are the president of an organization outside of government, be it Common Cause or a labor union or whatever other large membership organization may exist. What is one way, Mr. President, to heighten your power?

Well, one way to heighten your power is to limit what candidates for office can spend without limiting what you can spend. That is exactly what this bill does. At the moment it is questionable whether or not the majority even wants to put into this bill absolutely severe limits on what we call soft money, so that you can trace the money.

You cannot prohibit it being spent, but at least you would like to know that it is being spent and how. We require parties to do it, candidates to do it. Why not require other organizations to do it that are in fact involved in partisan elective politics even though they are not a political organization.

But my hunch is you would not, even if we put in these limitations on soft money, stop these organizations from spending it, nor do I think you should. I think they have a constitutional right to spend it. At least we would know what they are spending. But again you think to yourself if you limit or reduce the amount of money that candidates for Congress can spend, just as with the Presidential race you limit what the candidates can spend, you have not succeeded in reducing the total spending for running for office. What you have succeeded in doing is pushing most of the control outside of the candidate who has to report under the Federal election laws, who is held accountable under the Federal election laws, and you push it into the hands of organizations that at the moment do not have to report under the Federal election laws. And even if they did have to report, I think they would. But the balance of power would tip to those organizations that are not responsible to the public. They do not have to run for office. They are responsible only to their members and often to members who have a very narrow and specific view of what Government ought to do, an organization that has to answer only to its members who share that relatively narrow and often parochial view as opposed to a candidate that has to at least answer to a spectrum of voters across the State.

Well, let us not make any mistake. We are not going to succeed in reducing the amount of money that is spent. We may succeed in pushing it outside the system of candidates reporting to organizations that do not. We may succeed in pushing it outside of the candidate's control who has to answer to all of the voters of their State and into the hands of organizations that have to answer only to their members who share a like-minded view. But we will not have reduced the spending.

Now, let me respond, if I might, to the argument of the majority leader when he and I were talking about the relative cost of running for office and he said under this bill in West Virginia limits would be about $950,000 and, first, was that not enough and do I not think that ideas count? And is that not enough to get your ideas across?

You bet ideas count. Over a long period of time—and I do not mean 6 months or 3 months or 9 months—over a long period of time ideas count and you fight for them. Gradually this country changed its idea about slavery. Gradually this country changed its idea about separating blacks and whites in the public school system. And gradually, although not completely or we would not be debating from time to time the equal rights amendment, this country is changing its idea about the role of women in society. And we are coming, thank goodness, to the place where we are going to regard women as equals in the marketplace or elsewhere, although we are not there fully yet.

You bet ideas count. But now let us take a practical situation. You are the majority leader of the U.S. Senate, or you are the Senator from Oregon or the Senator from Nebraska. All of us have been in the Senate for some period of time. My hunch would be

that name familiarity with our voters—and by name familiarity I simply mean if you say to the voter, "Have you heard of Senator BYRD? Have you heard of Senator EXON? Have you heard of Senator PACKWOOD? they would say, "Yes" 90 percent of the time. In Senator BYRD's case I bet it is 99 percent. So as an incumbent you start out with one tremendous advantage. You have been in office for a long period of time and at least the voters know who you are; they have been able to hear your ideas for a long period of time, and I might add hear your ideas paid for frequently at public expense via the use of the frank when we send out our newsletters to all of our voters with our ideas in them. Obviously, of course, we send them out very selectively. We try to find groups that will agree with our position and send to that group our position. Maybe we mail to those over 65 our position on why Social Security should not be tampered with. Maybe we mail to the membership list of the National Rifle Association in our State our views as to why there should not be one smidgen of Federal control of guns. Maybe we mail to the environmentalists in our State our position as to why the Columbia Gorge or Hells Canyon in the case of Oregon should be preserved and saved, or maybe we mail to them why we think there should not be any oil drilling in the Arctic, an issue that is coming up now—mailed I might emphasize to these groups at the public expense, the taxpayer expense because we are an incumbent.

Our challenger does not have that advantage. Do you know what we have done to equalize the advantage? We have said that for the 60 days prior to the election, we, incumbents, cannot send out franked mail—now, if you have been in the Senate one term, by that time you have been here 5½ years. If you have been here more than one term, you have been here 11½ years or 17½ years—in order to equalize the advantage of the hundreds of thousands or in the case of a large State millions of dollars of publicly paid mail that we have sent out, telling every group in our State what we think and only telling those groups that want to hear what we think when we know we will agree with them. A tremendous advantage for the incumbent.

What do you do next as a matter of practicality? As an incumbent you can go to any radio station, television station, and tell them you are going to be in town. They will put you on live on the afternoon news at 5:30 or 6 o'clock. Radio stations will put you on any time. They will accept a tape and put it on.

In addition to sending our franked mail, we can also send out video tapes paid for by the public purse, radio tapes paid for by the public purse. All of our radio and television stations will put us on for 5½ years, 11½ years, 17½ years. In my case it is now going on 20 years. But if you are the challenger, you have a dickens of a time getting on the television news at 5:30 at night. Oh, maybe you can a month before the election, 6 weeks before the election when the campaign finally heats up. But if a year and a half ahead of time, 2½ years ahead of time, say, I am going to challenge Senator PACKWOOD or Senator EXON or Senator BYRD, you think you can go to the local radio and television station and get the same kind of coverage that the incumbent has, then you have not yet tried to be a challenger running against an incumbent.

Do you know the difference? The difference is called news. When you are covering the news in the broadcast industry, you are not subject to any of the so-called content doctrines like equal time. It is an exception. And the incumbent, of course, always creates news. The challenger does not always create news. Another advantage.

Let us go to one more. You would like to travel out through your State examining Coast Guard bases or to see how reforestation is going.

So you call up the Coast Guard, the Forest Service, and you say, "Gentlemen, I would like to look at the bases and chat with the personnel." You call up the Forest Service and say, "How are you doing on your reforestation? Could you get me a helicopter and take me?" It is done just like that. It is justifiable because they want you to see what they are doing. I do not blame them. They want to show off the best they have.

So they pick you up in a helicopter in the main city or your town, of course, after you cut a little morning press conference, and they fly you 100 or 150 miles each way. You take a look at some reforestation, and they drop you down in the second biggest town at noon in time for a news conference, pick you up again, take you someplace else, drop you off at 4 or 4:30 in the afternoon in the second biggest news media center in your State in time to get you live on television in that medium-type market at public expense. You have been hauled around.

I am not complaining that this is illegitimate. Some of the best ways you can see what your Government is doing for us is to go out, hands on on the ground, watch the trees being planted. I have nothing but regard for the Forest Service. They do a whale of a job. I am convinced we get more bang for the buck out of the money spent on the Coast Guard than any other branch of the military. I am delighted to see their bases, and I am proud of them.

But do you think the challenger can do the same thing? Do you think the challenger can call up the Forest Service and say, "Hey, I would like to fly around and see your tree planting"? Do you think the challenger can call up the Coast Guard and say, "Hey, how about letting me see your bases"? No. What you have is a situation where the incumbent has 95 percent name familiarity—in Senator BYRD's case I will bet 99—free access to the frank, unlimited access to the news media, access to the governmental facilities to travel you about the State and then you say, now we are going to have a campaign limitation law that allows the challenger to spend no more money than the incumbent.

When the incumbent starts out with every incredible advantage you can think of, and you are a poor State legislator and in most States a State legislator starting out to run for statewide office will be lucky to start with 5 to 10 percent name familiarity. And from that they have got to build to 80, 90, or 100 percent in order to challenge the incumbent.

On occasion one of those unknown State legislators will win, yes, although more often than not it is because the incumbent somehow shoots himself through the foot through no fault of the challenger during the campaign. On occasion it has happened since I have been here. The incumbent drops dead in the middle of the campaign. Suddenly you are left with an unknown challenger now to be faced with another unknown challenger.

Those things can happen. But if you mean the normal circumstance, the poor unknown challenger is doing everything he or she can, driving themselves until they drop dead overnight in order to get to a speech with 20 people in the morning in a town 200 miles away that the news media does not cover.

I am not blaming the news media. But that is what the challenger is up against. It is an unusual challenger that happens to be the Governor of the State who is well known against the Senator of the State who is well known. It happens on occasion. It is not the usual situation.

A Member of Congress is not as well known as a Member of the Senate. So if it is a Congressman or Congresswoman challenging the Senator, while they start with some degree of name familiarity, it is nothing like the Senator.

Dr. Gallup every year asks the question, "Can you name your Member of Congress in the district?" On the average it has run the same for years. With or without broadcasting, it is the same in 1938 as 1988—about 45 percent can name their Member of Congress, not what party they are, not anything they have ever voted for, just name them. It is a little more in

urban, and maybe a little less in rural areas. But that is a Member of Congress. It is not a State legislator, it is not a mayor of a town of 40,000 or 50,000, or county commissioner of a county of 60,000 or 70,000, but a Member of Congress representing a district of about 500,000 people. They still start out at a disadvantage.

Now let us consider the further advantages if you are an incumbent in the majority party. I first indicated all of the advantages that all incumbents have, whether you are in the majority or the minority, with the frank, the travel, the news. But, in addition to everything else, you find out that on average—I am emphasizing again average because there are exceptions—on average people vote their party. Do they make exceptions? Of course they do. But I mean on average Republicans are more likely to vote for Republicans than they are Democrats and Democrats are more likely to vote for Democrats than they are Republicans.

(Mr. ADAMS assumed the chair.)

So put two and two together. If you are an incumbent, Democratic Member of the U.S. Senate or the House, you have the advantage of incumbency, and with it all the concomitant access to the frank, news media and everything that goes with it. If you are a member of the majority party, the Democratic Party, what better will ensure your reelection than to say to a challenger you can spend no more money than I can. Do not worry that you are unknown. Do not worry that you cannot get in the news. Do not worry that the Government will not ferry you about the State. Do not worry that you have access to the free postage like I do.

In addition to having tied now both of your arms and legs behind your back, we are going to say that you cannot spend any more money than I can. It is clearly an advantage for the incumbent Democratic Member of the House or the Senate.

Now let us add one more thing on top of that. The majority leader was here when I mentioned it some hours ago. For whatever reason—I think I know the reasons but I am not going to get into the argument as to why—the Republicans have been infinitely more successful than the Democrats in raising money by direct mail in small quantities. And by small quantities, I mean if you are lucky on a good direct mail piece, the average contribution of those who respond is about $20. A direct mail fundraising is quite expensive. It may have changed a bit since I was more expert at it years ago when I was chairman of the Republican Senatorial Campaign Committee and we did lots of direct mail fundraising. But this is what we presumed then and I do not think it has changed much now.

If you can break even on what we call prospecting—prospecting is when you mail from a cold list. You rent the Time magazine subscribers, Fortune magazine subscribers, or you rent membership lists. They are available to rent for anyplace from $55,000 to $75,000.

If you can break even on prospecting, that is regarded in direct mail as good. If you spent $1 million and you raise $1 million, you consider that you have done well. The reason being that once a person has given you money they are likely to give money again.

So let us say you mailed out 1 million pieces of mail. You get a 2-percent return, 20,000 people respond, $20 apiece, you have raised $400,000, the mailing to 1 million people has cost you about 40 cents to mail it out, you have spent therefore $400,000 mailing it out, you have broken even, now you have a list of 20,000 people that have given to you once and direct mailers know now that you can mail those people four, five, six times a year, and they will give one or two more times. That becomes relatively inexpensive to do once you have the list.

For reasons I say we do not need to discuss here, the Republicans have been immensely successful at raising money in these small amounts by direct mail. The Democrats have tried it and it has not worked for them. It has been an uphill struggle to get millions, and it is millions of people now. It has been an uphill struggle for them to get millions of people to give them $20 apiece.

So ironically, despite the publicly held perceptions of the parties—that is of course the publicly held perception that the Democrat is for the little person and the Republicans are for the fat cats—the inverse has happened in terms of contributions to support the party.

The Democrats—there are articles in the Washington Post, the New York Times, the Wall Street Journal on this—are infinitely more dependent upon donations from political action committees and donations from large donors, that is, fat cats, than are the Republicans. Raising money in large amounts is cheaper than raising it by direct mail.

For example, put on a $1,000-cocktail party, which are common here now, common around the country. If you want to come to the cocktail party to reelect Senator PACKWOOD or Senator BYRD or Senator EXON, come down to the Washington Hotel for a $1,000-cocktail party, and it will cost you perhaps $25 or $35 per person to put it on. So let us say that for $30 you raise $1,000, and you make $970. That is inexpensive fundraising.

So, if you put a limit on what can be spent and therefore what can be raised—there is no point raising more than you can spend—what is the kind of fundraising that you encourage most? You encourage large contributions from political action committees and fat-cat donors, because that is the cheapest money to raise, and it gives you that much more to spend on your campaign; whereas, if you raise it by direct mail, you would have to spend a lot of it just in raising it; and as you do direct mail all around the country, that is not money you can spend in your State on the campaign. It is the latter technique that the Republicans have been successful in.

What better way to attempt to limit Republican successes than, in essence, to cut off the principal method that we, as Republicans, have discovered to raise money—hundreds of thousands and millions of contributors giving us $20 apiece on the average? Cut that off, and instead encourage the method of fundraising that the Democrats have found most successful—the fat-cat, large, political action committee donor.

Is it any wonder that the Republicans are inclined to think that this bill perhaps may have been designed to perpetuate the Democratic majority in Congress? I emphasize again—I am sorry to repeat it—but it is the old salesman's adage: Tell them what you told them.

Incumbents have an advantage, and there are more incumbent Democrats than incumbent Republicans. The majority party has an advantage throughout the country, and there are more Democrats than there are Republicans in the country.

If the bill limits what you can spend and therefore limits what you can raise, you will try to raise it in the most cost-efficient way possible, and that is from the large, fat-cat donor, and that is the way the Democrats have been most successful in raising money. So, what is a Republican to think?

The argument has been made that the average cost of campaigning in 1976 for the Senate was, I think, $600,000, and last year it was $3 million; and if it keeps going like this, it is going to be $9 million in the next campaign; and then how much is enough—$90 million, $900 million, $9 billion? These arguments have been made over and over. "No," they say, "We have to stop that by putting a limit on spending."

I suggest that there is another way to put a limit on spending, and that is to do two things. I emphasize the limit on spending by the candidates. Do not forget the point I made earlier that any money not given to candidates will go to organizations outside the candidacy and it will be spent the wrong way, and S. 2 does not address that.

At least, if you want to cut down what the candidates have to spend, first let us zero out the PAC's. They

cannot give any money to campaigns for the Senate or for the House—cannot give any money.

That at least will remove the principal argument that Common Cause has used in its advertisements and its campaign about the evils and the greed of special interests aggregating their money together in political action committees and giving it in an unseemly way in order to gain an ear. I have suggested that. I will vote for that.

It meets with little favor on the other side. It meets with little favor on the other side because that is the principal way they raise their money. That have the majority of the votes. Why should they vote for an amendment that will disadvantage their principal way of raising money, big money—political action committees?

So I say that if we want to get rid of the evils of political action committee money, zero—they cannot give it.

Let us go to a second idea—the fatcat donor. Today, individual donors can give $1,000 in the primary and $1,000 in the general election. Often, you will find that it is a husband and wife. They will give $2,000 in the primary and in the general election give $1,000 each—$4,000. Again, the Democrats are much more successful than the Republicans in raising money in that quantity from donors of that size.

So I suggest that if you really want to cut the cost of campaigns, why do we not do the following? Why do we not lower the limit from $1,000 to $100? That would have the following effects.

One, with the very few exceptions of some Senators who may have been in this body a long time and are well-known, the likelihood of raising in any significant quantity $100—do not forget, I am talking about a maximum; their contribution is not a maximum—but the likelihood of raising $100 from an individual who does not live in your State is relatively slight. For a $100 contribution, they are not trying to buy you. They may give it because they believe in a position of yours. It is given in a sense of belief.

So, the first thing it would do for most of us—not for everybody, but almost everybody—is that most of the small money we would have to raise in our own State, not out of State. If you limit it to $100, I think it would automatically have the effect of reducing the total amount of money you would collect.

The majority leader and I were discussing his State of West Virginia sometime ago, and we were using this argument of $3 million for campaigns and assuming $9 million for campaigns.

I said, "$9 million in West Virginia, if you were to raise that in average contributions of $20, you would have to raise it from 450,000 people."

He said, "450,000 people? That is ridiculous. We could not raise that much in West Virginia. We only have 1.9 million people. You could not possibly raise $9 million, with a $100 limit and an average contribution of $20."

I said: "Exactly. That is my point."

Do you want to make sure these campaigns do not go to $9 million? I do not know about his State. I would be lucky to get 50,000 or 60,000 people to give me an average of $20 each. If you want to cut down the cost of campaigns, cut down the amount they can give and eliminate PAC's. Then the only way you are likely to do it in your State is to have an extraordinary organization that is willing to go door to door, knocking on doors, saying: "Hi. Will you give $5, $10, or $15 to BOB PACKWOOD?"

"No."

Next door: "Will you give $5, $10, or $15 to BOB PACKWOOD?"

"No."

Next door: "Will you give $5, $10, $15 to BOB PACKWOOD?"

"Yes. Here's 10 bucks for BOB PACKWOOD."

He would have to raise it on that kind of a basis. Do you know who that would advantage, because as a former Speaker of the House, Tip O'Neill, once said all politics is personal? That would advantage the person that is actually in his or her State all year long as opposed to the U.S. Senators who have to stay in Washington 8 months, 9 months, 10 months, 11 months depending on how long the session runs.

So while we have an advantage in getting publicity and we have an advantage in getting the frank, you still find that personal loyalty commitments come out of face-to-face meeting, shaking hands, being there spending time, and that a local politician can do better than one who has to spend the bulk of his or her time in Washington, DC.

So not only would a $100 limit cut the cost of campaigns, it would give an advantage to the challenger who is in the State all year rather than the Senator who is in Washington all year. No wonder that does not meet with much favor.

No; I say to my colleagues it is very clear that if what they want to do is what they say they want to do it can be done without tapping the taxpayer's pocket. It can be done by eliminating political action committee contributions. It can be done by lowering the total contribution that an individual can give. It can be done in a dozen ways. But all of them from the standpoint of the majority party have the disadvantage of either hindering the incumbent or hindering the majority party because, as I said before, it is the Republicans more than the Democrats who have had the success at raising money from smaller donations.

So the majority wonders why the minority is debating this bill and if necessary is prepared to filibuster it, and we are. There is no question about it. It is because we think it is unfair to the Republican Party. We think it is unnecessary to tap the public purse in order to achieve the ends that the majority says they want to achieve because if they really want to do that, they can do that without tapping the public. They can do that without spending limitations. They cannot do that without disadvantaging themselves.

So I perfectly understand why, if I were in the majority, I would favor the bill unless I had some moral misgivings about tapping the taxpayer. Do not worry about a $150 billion deficit. This will add another $30, or $40, or $50, $60, $70 million. No one knows what this is going to really cost. We will add another amount to our deficit so that the taxpayers will have to finance our campaigns. There is no need for us to work hard to raise the money for our campaign. Let them work hard and we will take it from them. It is a lot easier for us. Of course, is that not the purpose of all this—to make things easier for us? That is not the purpose.

I say again we can achieve anything they want to achieve. But what they want to achieve is a permanent legislated mandated majority status in the Congress at the taxpayer's expense to the detriment of the Republican Party.

So like Senator PROXMIRE, 16 or 17 years ago, I think we in the minority are prepared to stand here like Ulysses S. Grant, fighting it out on this line all summer if necessary to make sure that this pernicious system which is unnecessary, unneeded, whose only function is to perpetuate at public expense the Democratic majority in the Congress, we are prepared to stay here all night tonight, all this week, all this month, all next summer to see if it is stopped.

Now is it futile? Of course the majority knows it is futile. If by some imagination, and I do not foresee it, they manage to peel off—and there are two or three Republicans who might go with them—they manage to peel off enough to get 60 votes for cloture—that is what it takes to shut off a filibuster—if they have 60 votes to shut off the filibuster, I am assuming they have 50 votes to pass the bill. Then it goes to the House. It is hard to tell what the House is going to do because if anything the House Members have even a greater advantage than the Senators in terms of incumbency for the simple reason that at least when you are running for the Senate it is a statewide office, and if you are a challenger you might get some little modicum greater of publicity from the news media than you get

if you run for the House. They even have a great advantage.

Let us assume it goes to the House, same battle over there that you had here, but there they have no rules of cloture. Finally after some extensive debate it is jammed through the House and goes to the President. He vetoes it. He said he is going to veto it. He is not going to allow these lowered postal rates and that is in the bill that candidates get lower postal rates, public money. He is not going to allow this to become law. He will veto it and there is clearly the votes in the House and the Senate to sustain that veto.

So, the point of all this is not to pass a bill in this Congress. It may be to lay some groundwork. It may be to get public attention. We on the minority side are perfectly happy to argue the public merits on our side before the public. We think our side is the better position.

Let us not talk about this bill's passing, becoming law this Congress. Who knows what another Congress, another President will bring?

I do not think my views on this issue will change, but maybe the Democrats will pick up four or five more seats in the Senate next election. Again, I do not think so. Maybe they will pick up 20 or 30 seats in the House. Maybe they will win the Presidency. I do not think so. But they might, in which case they can jam the bill through in the next Congress unless by that time the Republicans have been sufficiently successful in bringing to the public's attention the evils of this bill, the unfairness of this bill, the fact that the bill is unnecessary to achieve what the public wants.

Now, Mr. President, I am going to turn my attention to the argument that this has worked well in funding Presidential races and, therefore, we should use that as an example in funding congressional races. That argument has gone somewhat without rebuttal until Senator MITCH MCCONNELL, of Kentucky, brilliantly, in my judgment, shot it down as to whether or not that should be the example we should follow.

Mr. President, I ask unanimous consent to print in the RECORD a list of the points that I will make at length in my speech, but I would like to print them in the RECORD at the moment.

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

SPENDING LIMITS AND TAXPAYER FINANCING IN PRACTICE: THE FAILURE OF THE PRESIDENTIAL SYSTEM

OVERALL COST TO TAXPAYERS

$40 million so far in last two months alone.

Over a third of a billion dollars in last three elections.

PROLIFERATION OF EXTREMIST CANDIDATES; WASTE TAX DOLLARS

Half a million dollars to Lyndon LaRouche in 1984.

$200,000 to psychologist Lenora Fulani to run for President.

MORE BUREAUCRACY, NOT DEMOCRACY

1 out of 4 campaign dollars goes to lawyers and accountants.

In 1980 Presidential race, $21.4 million spent on compliance alone—as much as the most expensive race in Senate history.

Campaigns must process each contribution through 100 steps.

"Political decisions have become accounting decisions".

UNPRECEDENTED GROWTH IN CAMPAIGN SPENDING UNDER "LIMITS"

Overall spending now increasing at same rate as before spending limits and taxpayer financing.

The difference is that far more spending now done outside legal limits and disclosure requirements—less accountability.

EVERY CANDIDATE A CHEATER

Every major candidate since 1976 has been cited for serious violations of the law; bad press and large fines result.

One candidate spent $2 million in a state with a $400,000 limit.

Delegate and pre-candidacy committees are "loopholes big enough to drive a truck through—conduits for millions of dollars outside of spending and contribution limits.

Corporations and labor help circumvent limits by paying office rent and phone deposits, and giving overly generous loans.

GROWING DISRESPECT FOR LAW AND ELECTION PROCESS

Campaign managers report that the first planning priority is to identify in advance ways to circumvent limits and rules.

A respected observer and campaign staffer declared "this whole FEC thing is a sham . . . it's your job to find every loophole".

SPECIAL INTERESTS WIELD CONTROL BY SPENDING OUTSIDE THE LAWS

In 1984 general election, special interests spent $25 million to oppose Reagan—62% of Reagan's $40 million spending limit.

Nearly half the money spent in the 1984 general election—$72 million—was outside the candidates' direct control.

At least one-fourth of all money spent in Presidential races is unreported, unlimited, and accountable.

Soft money spending is roughly tripling each election cycle.

Races resemble uncontrolled, corrupt politics of pre-reform era.

VOTER TURNOUT HAS STAGNATED

55% in 1972; down to 53% in 1984.

GRASSROOTS POLITICS AND CAMPAIGNS HAVE DIED

David Broder: "spending limits and taxpayer financing have shut down local campaigning . . . grassroots democracy has died".

Mr. PACKWOOD. Now, let us begin to talk about cost alone because you remember the argument that this would limit cost in the Presidential campaign.

First, we have had in terms of overall cost to the taxpayers over $40 million spent so far in the Presidential races, a grand total in the last three elections of public money over one-third of a billion dollars for the Presidential elections, public money, and I will call your attention to what I said earlier about the report from the John F. Kennedy School at Harvard about we have not even cut down the amount of money that is being totally spent in the campaigns. We now finance well over one-third of a billion dollars in the last three elections from the public and we have pushed all other kinds of money out into other sectors. So we have not reduced the cost. We have simply pushed it out under organizations that have less responsibility to account to the public than do political parties or candidates.

We have not succeeded in reducing the cost of Presidential elections. What we have succeeded in doing is reducing the amount of money that the candidate organizations spend on Presidential races and dramatically increased the amount of money that non-Presidential candidate organizations spend on the election in support of or in opposition to one of the candidates.

We have encouraged fringe candidates and the bill for the Congress will do the same, fringe candidates who might not have any other appeal to get into the races in the hopes of minimally qualifying and it does not take much to qualify to get public funds, candidates who might not otherwise get into it but when they see the wonderful candy of money from the public, why not?

Lyndon LaRouche, this is a candidate that perhaps you have heard of. He has had tremendous legal difficulties recently. He got a half million dollars in 1984. Lenora Fuyani, a well-known, New York psychologist, she got $200,000 a few weeks ago to run for the Presidency.

I have no objection to these people getting in. But what has happened is a good many people are getting in because they can become supported by the public. It is their privilege. The law allows it. The question is: Do you, the public, want to pay for it?

And let us take a look at who is getting the money. One out of four campaign dollars in campaigns for the Presidency, one out of four, Mr. President, goes to lawyers and accountants. In the 1980 Presidential race, $21.4 million was spent on compliance, as much as the most expensive race in the history of the U.S. Senate.

GEORGE BUSH's campaign has now indicated that they process each contribution through 100 steps to make sure that they have not violated the law. So we have the public money going to the campaigns so it can go to the lawyers and accountants so that they can make sure that no one has spent more than they should have spent.

Except that is not really what they end up looking for. What they end up

looking for is ways to get around the spending limits. And, my fellow Senators, they have succeeded in getting around the spending limits. I should rephrase that. When I say "getting around," it assumes they have gotten away with it and if they get away with it, you do not know that they have got around the limit.

But every major candidate, every major candidate since 1976 running for President has been cited for serious violations of the law. They have gotten bad press. There have been large fines as a result. One candidate was found to have spent $2 million in a State with a $400,000 limit. How do you do it? You are campaigning in New Hampshire and you rent cars in Massachusetts. You advertise on a Boston television station and charge that amount to your Boston limit because you have limits in your Presidential campaign as to how much you can spend in each State. The fact that Boston television covers New Hampshire, is that not coincidental?

In one case, one candidate was found to have spent over $60,000 in Massachusetts to rent cars—cars that never left Iowa or New Hampshire—and attempted to charge it to his Massachusetts limit. What you end up with are private groups.

And former Senator and former Vice President Mondale ran up against this in 1984 when, I thought, GARY HART'S lawyers brilliantly challenged him successfully. You may recall those independent delegate committees. Vice President Mondale said, "Gosh, I didn't know about those. I don't know where they came from. I don't understand how they are spending all this money."

Of course, Senator Mondale, Vice President Mondale was not taking political action committee money, but all these independent committees were taking political action committee money and they were going out hustling up delegates for Vice President Mondale and he goes: "Who me? I didn't know anything about that. I don't know how that happened." Until GARY HART'S lawyers took him to court. It turns out they were part and parcel of a campaign and the legal wits in the Mondale campaign had been caught attempting to avoid and evade the law.

You have corporations and labor attempting to help both candidates. Organized labor spent untold millions of dollars on behalf of the Mondale campaign in 1984. The Teamsters spent a great deal of money on behalf of President Reagan. In neither case did it count against the limits which the Mondale or the Reagan campaign could spend. It was independent money and, in many cases, not required by the law to be reportable.

In the 1984 general election, special interests spent $25 million to oppose President Reagan, which was 62 percent of the $40 million that the President could legally spend.

My fellow Senators, we have not seen half of it, not a third of it, not a tenth of it. As this law goes on and as more and more organizations discover how they can spend money on their members, for their members, by their members, contacting the public and never having it be counted as part of the Presidential spending limit, it is going to grow and burgeon and I predict it will grow and burgeon if we pass a law requiring them to account for it. They will continue to do it.

So this is the example that the majority party gives for us to follow: gross and crass violations of the law by campaign managers, campaign lawyers, campaign accountants advising Republican and Democratic candidates running for the Presidency how to get around the law, a quarter of the money in the Presidential campaign going for compliance, going for lawyers and accountants.

I hope that is not what this Senate wants. I hope that this Senate only wants to pass necessary laws to ensure clean campaigns. That, we can do. But what the majority wants is a partisan law to assure a partisan majority into the indefinite future.

So if the majority leader wonders why the Republican Party intends, if necessary, to filibuster—and I use the word in the best sense; and I am happy to say that I learned a lot from Senator PROXMIRE 17 years ago—if necessary, we will be filibustering this bill until this Congress runs out on January 3, 1989.

I yield the floor.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I also would like to join with Senator PACKWOOD and Senator MCCONNELL and others who are talking about this bill. I want to talk about a number of aspects of the bill and about campaign financing in general, just as my friend Senator PACKWOOD has, giving the examples of the Presidential campaigns and really the sorry state of affairs that has come to exist there, and also giving other examples with respect to campaign financing where the money comes from and perhaps correct some misapprehensions with respect to both the position of Republicans and Democrats as it regards campaign financing.

First, Mr. President, I would like to discuss whether or not it is self-interest on the Republican side that is leading us to filibuster this bill. Most of the votes against cloture clearly will come from this side. Not all, however, will come from this side. And so it may be concluded that there is some self-interest and it is true.

As my friend, the Senator from Wyoming, remarked in a newspaper report that I saw in yesterday morning's paper, the Republicans should not be seen as legislating themselves into a permanent minority status. I believe he said that in the event we were to establish limits we would probably be in a minority status for the next 40 years, perhaps even more. Clearly, we would eliminate any possibility of our gaining seats in the southern part of the United States, the so-called Southern States.

For many years, the Senate and the House of Representatives was represented virtually exclusively by the Democratic Party from the South. Every 2 years you would turn on a faucet and of the 110 Members of the House of Representatives, out would come 108, 109, some years 110 Democrats, with absolute regularity.

When you consider that the majority in the House of Representatives is 218, half of that majority would be provided with great regularity from the South. That, of course, is a carryover from the Civil War and it meant, too, that we had to take three-quarters of all of the congressional votes in the North in order to have control of the House of Representatives. Beginning in 1930 it simply became an impossibility with one 2-year exception, or perhaps two 2-year exceptions; once in 1946 and once in 1952, were the Republicans the majority party. During the entire 58 years, only in 4 years did Republicans control the House of Representatives. And largely because in the South with great regularity, all 110 or at least 108 of the 110 Members of the House of Representatives would automatically be produced each 2 years. Because of that the Members from the South, through the seniority positions, gained great power in the House of Representatives and, indeed, still have it to this day; much more so than in this body.

So it was here in the Senate that each 2 years—and of course our terms are staggered—the Senate would have two dozen Members from the Southern States, fully a quarter of this body, who would automatically be produced as members of the Democratic caucus. For most of that time, until 1980, only 2 years, I believe, from 1930 to 1980, were we the majority party on this side of the aisle.

To now pass a piece of legislation that would effectively preclude us from becoming the majority party at any point in time would be irresponsible and not in the best interests of our Nation. To pass a piece of legislation that would effectively preclude us from having strong candidacies in an entire region of the country, where the Republican Party still does not have any real infrastructure, where every county courthouse, where every

sheriff, where the vast majority in the State legislatures are controlled by the other party, by the Democratic Party, to deny ourselves a full quarter of the Senate would be irresponsible and not in the interests of our Nation.

So I suppose that one would have to say that there is some self-interest in this. We as a party want to survive. We as a party want to be the majority party just as much as the other side. And we as a party, in the interests of the American people and in our self-interest, simply cannot be expected to legislate ourselves out of a majority status or out of the possibility of becoming the majority once again and create, in effect, a one-party system in the United States much as has been done in the House of Representatives.

The Democrats, of course, have control over the State mechanisms of government and have allowed the congressional district lines to be drawn in such a way that they are able to maintain their majority over a long period of time. But here there is no redrawing of lines, unless a new State were to come on. The lines are established. That kind of manipulation cannot be done. So it is here that the battle must be fought. It is here that the possibility for majorities exists. And it is here, if we are going to defend the idea of a two-party system in the United States, that the battle must be fought. It is here, if our self-interest is going to be protected, that it must be put forward.

Another reason that we feel so strongly about the idea of not establishing limitations, of not reducing the ability to provide funds, is more people participate in the political process, Mr. President, through making contributions to the system, contributions to the political process, than they do in any other way. In my campaign, Mr. President, I had 65,000 contributors. We had approximately 110,000 contributions. Many people contributed more than once, very obviously.

One lady, now in her eighties, from Rochester, MN, contributed, if I recall, 20 or 24 times with great regularity, each month, from her Social Security check. She would send a small contribution which over the period of 2 or 3 years amounted to several hundred dollars. That was her way, one of the ways in which she contributed to the political process, and a most meaningful way indeed.

I felt that in the process of raising funds for my campaign that I wanted to get a broad base of contributors. I wanted such a large number, so dispersed throughout our State from every corner, in every county, in every town, in every city, that if the farmers got together in the morning for coffee or ladies got together in the afternoon for bridge or pinochle, or if the guys got together at the American Legion club or other clubs in that town to play a little poker in the evening, I would always have an advocate in that group. Very often talk turns to the political process. It is a great source of conversation. And it is important that one have advocates out there because that is the way you win votes.

In my judgment, winning votes is not just done by virtue of running a 30-second TV ad. As a matter of fact, many of our candidates in the last election were defeated because they thought they could address their constituency in 30-second TV ads rather than addressing them in person and getting them involved in the political process.

One of the fortes of my political efforts, Mr. President, about which I am the proudest, is the large number of people whom I have gotten involved in the political process. The idea of grassroots politics, in my judgment, is the whole strength or one of the basic strengths of our political system. Indeed, it is one that should be continued.

So that part of the whole purpose of financing campaigns is for the purpose of grassroots politics. And, very frankly, to get the large number of contributors that I got in my campaign, it requires an extensive mailing effort. The principal beneficiary, perhaps, of my campaign, was the post office. We mailed out a lot of stuff in order to get 65,000 contributors, 54,000 of them from the State of Minnesota. The process of mailing became a large expense; I believe the largest expense of my campaign. But it is part of the process, Mr. President, to increase involvement. Mailings not only involve individuals, but it sends out a message on an ongoing basis in America that is understandable, and that also is an important element of the political process.

Reduce the amount or limit the amount that can be spent in any particular area, as S. 2 does, and you limit the amount of grassroots participation that is possible.

Worse than that, when you limit the amount of money, when you push it down over here, it pops up over here, because that, too, does nothing whatsoever about so-called soft money. I must say in honest admission, Mr. President, that soft money is better utilized by the other side of the party, by the Democratic Party, than by ourselves.

Soft money, of course, is money expended by others in behalf of the candidate. It has been done on our side by conservative institutions, such as NCPAC. It brought no glory, very frankly, to the political system. It was part of the institution of negative campaigning which has not served our system well and has not done credit to our Nation's political institutions.

But just as independent expenditures are made in that manner, so they are made by others. As Senator PACKWOOD pointed out in his remarks, many, many millions of dollars were expended by unions in behalf of Senator Mondale and not a penny of it had to be reported. Not a penny of it is required to be reported under this legislation. The same will be said in future years about political action committees.

Now that political action committees have learned the ropes of how to raise money, they will find a way to continue to do that. They have built up organizations. They have built up bureaucracies. Somehow, as in government and other things in life, such bureaucracies have a way of perpetuating themselves. PAC's will perpetuate themselves. They will raise money and they will have independent expenditures. If a particular PAC is small and has no independent expenditures, new PAC committees will be formed and the small ones will give to the large ones and they will band together for independent expenditures. These sums will in no way be reported under the provisions of this bill. Indeed, they are not required to be reported at this time.

I do not think that the political process can be so easily controlled. I do not believe we really can effectively control the amount of money that flows into the political process. When you push it down, the law of independent effect comes into effect and it goes up, and the law of independent effect is indeed the problem that is sought to be dealt with by S. 2.

As you know, Mr. President, political action committees were themselves reforms. They were reforms that came out of the 1972–74 period. In the 1972 Presidential race, huge amounts of money were given to the Republican side of the aisle, and amounts that really should have been limited and that we have since limited.

Today, the maximum an individual can give to a Senate candidate is $1,000 for the primary and $1,000 for the general election. That amount has not been changed for a number of years, as a matter of fact. No inflation has been added to that number.

In 1972, hundreds of thousands, in some instances $1 million or $2 million, was given to the campaign of Richard Nixon and in that way he had quite an advantage. It was an effective fundraising effort without question. But it offended the public image, and it offended the political process. I, too, would have voted for reform.

One of the reforms that came out of that was political action committees. Political action committees were very little used prior to that time by anyone other than the unions who early on discovered through COPE and other vehicles their usefulness in the political process. Indeed, they have been useful.

The beneficiaries of political action committees today are thought to be the Republican Party.

I would like to review a little bit how the political action committees do give money to the political process. As a matter of fact, it is so disproportionately in favor of the other side of the aisle, the Democrats, that it is very tempting to want to limit the political action committees, and I have seen some packages put together that would limit political action committees.

Political action committees come in various groupings according to a book entitled "Almanac of Federal PAC's," that comes out every 2 years.

In 1985, the cycle that just ended, political action committees gave $132,179,661 to the political process. That is a lot of money, Mr. President, and better that it should be raised through the private sector of the economy than it should be added as an additional burden for the taxpayers. The idea of having taxpayers pay for the electoral process, in addition to everything else they pay for, really is offensive.

One would think that with $132 million in PAC dollars, in round figures, at least half of that, $66 million, would have gone to Republicans. In fact, Republicans received somewhat over $57 million and Democrats received $75 million.

In percentage terms, the Democrats received 56.5 percent of PAC contributions and Republicans received 43.5 percent of PAC contributions.

I might say only in recent years have we on the Republican side crept up over the 40-percent mark. I think this is the third election cycle where we have been up over the 40-percent mark in terms of the moneys that are given to the political process.

In the House of Representatives we are a long way from being at the 40-percent mark. In the House of Representatives, as other Senators may have already indicated, scores of Members of the House—I forget the exact number—as I recall almost 150 Members, about one-third of the total House of Representatives, receive more than 50 percent of the moneys that they use to campaign from political action committees.

Certainly, I would be in favor of some type of limitation because it is important, in my judgment, that people go out in their State and solicit money, present their views and make themselves known to their constituency.

However, it is important also to add that those who attack political action committees should keep in mind that more people give to the 4,000 or so political action committees than give to all the Senate candidates put together so that indeed many people are involved in the political process by virtue of the political action committees.

If you look at the Senate in the last election, in 1986, we on this side of the aisle received more from political action committees, $25 million, almost right on the head, and the Democrats received $20 million, right on the head. So we certainly received more.

However, if you look at Democratic challengers they received $8 million and Republican challengers received only $2 million. So political action committees on our side need a little education and they have to take a few chances. Let us say that those political action committees that contribute to the other side of the aisle are more risk oriented. Our political action committees, those who tend to look at our side, look at the whole political process as horse trading. They do not have a philosophy they want to present. They do not have a philosophy they want to defend. They do not have a philosophy they want to further. Their philosophy is winning, to get on the horse that you think will win so that you will have access when he or she does indeed win. That is really the goal of their giving.

I must say, quite to their credit, that political action committees, particularly union political action committees, represent the philosophy and follow the philosophy of their members far more so than do corporate political action committees. Although in the Senate in 1986 I must say we led the Democrats quite markedly. However, overall, because of other PAC's, labor union PAC's, trade groups, nonconnected PAC's, so-called ideological PAC's, these PAC's which have an ideology other than winning, which have an ideology other than just playing it like a horse race, have preferred the other side of the aisle to ourselves.

Mr. President, I ask unanimous consent that this page of Federal PAC contributions of 1985 and 1986 be printed in the RECORD.

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

FEDERAL PAC CONTRIBUTIONS: 1985–86[1]

	Number	All PAC's	Corporate	Labor unions	Trade groups	Nonconnected	Other PAC's
All candidates	(1,868)	132,179,661	45,926,975	29,843,517	32,799,275	18,710,423	4,899,420
House	(1,606)	87,179,011	26,807,569	22,629,156	23,364,783	11,085,807	3,291,696
Senate	(262)	45,000,600	19,119,406	7,214,361	9,434,492	7,624,616	1,607,725
Democrats	(968)	74,633,227	17,590,743	27,664,754	15,949,594	10,806,610	2,621,526
Republicans	(688)	57,540,019	28,335,482	2,177,713	16,849,681	7,899,498	2,277,645
Others	(212)	6,365	750	1,050	0	4,315	250
Incumbents	(423)	89,451,992	34,477,165	16,885,180	25,006,224	9,210,199	3,873,224
Challengers	(870)	19,213,871	3,653,553	7,447,013	2,870,216	4,788,322	454,767
Open seats	(363)	23,513,748	7,796,257	5,511,324	4,922,835	4,711,902	571,430
House Democrats	(841)	54,631,391	12,825,077	21,041,367	12,221,838	6,612,093	1,931,016
Incumbents	(235)	40,962,642	11,727,013	13,239,721	10,515,900	3,743,730	1,736,278
Challengers	(430)	6,652,409	264,176	4,299,059	612,743	1,428,935	47,496
Open seats	(176)	7,016,340	833,888	3,502,587	1,093,195	1,439,428	147,242
House GOP	(596)	32,542,970	13,981,992	1,586,739	11,142,945	4,470,614	1,360,680
Incumbents	(161)	24,864,949	11,100,005	1,481,229	8,795,712	2,359,792	1,128,211
Challengers	(319)	2,434,499	747,086	18,500	646,275	947,469	75,169
Open seats	(116)	5,243,522	2,134,901	87,010	1,700,958	1,163,353	157,300
House others	(169)	4,650	500	1,050	0	3,100	0
Senate Democrats	(127)	20,001,836	4,765,666	6,623,387	3,727,756	4,194,517	690,510
Incumbents	(9)	7,277,444	2,471,890	1,622,056	1,732,517	1,146,856	304,035
Challengers	(75)	7,944,268	1,417,750	3,128,154	1,250,256	1,873,670	274,438
Open seats	(43)	4,780,124	875,936	1,873,177	744,983	1,173,991	112,037
Senate GOP	(92)	24,997,049	14,353,490	590,974	5,706,736	3,428,884	916,965
Incumbents	(18)	16,346,957	9,178,167	542,174	3,962,095	1,959,821	704,700
Challengers	(46)	2,177,580	1,223,791	500	360,942	534,933	57,414
Open seats	(28)	6,472,512	3,951,532	48,300	1,383,699	934,130	154,851

FEDERAL PAC CONTRIBUTIONS: 1985–86[1]—Continued

	Number	All PAC's	Corporate	Labor unions	Trade groups	Nonconnected	Other PAC's
Senate others	(43)	1,715	250	0	0	1,215	250

[1] The table summarizes contributions by PAC's to congressional candidates during the 1985–86 election cycle.

Note.—Other PAC's category includes PAC's sponsored by cooperative and nonstock corporations under the FEC's categorizing system.

Source: Federal Election Commission.

(Mr. HARKIN assumed the Chair.)

Mr. BOSCHWITZ. So, Mr. President, this bill does not do anything to promote grassroots politics. This bill does nothing to end really the scourge of soft money in the political process. This bill limits the amount and is a bill that can best be called an incumbent protection bill.

Think of it for a minute, Mr. President, that an incumbent has a press secretary, has great access to the press, has a staff of people to keep him or her advised of the legislation that is going through, a staff of people who can keep him or her advised of the issues of the day. None of this staff, of course, is counted toward the amount of money that can be spent by a challenger. In addition to that, the incumbent also has the franking privilege that is of no small consequence in the whole business of the electoral process. Yet the challenger is limited to the amount of money that can be spent against an incumbent who has all these advantages.

So when one says that S. 2, the campaign reform bill, is an incumbent protection bill, indeed, it is. When one looks further and says that this bill, in addition to being an incumbent protection bill, is also a bill that would effectively preclude the Republican Party from having any elected official in the Southern States, one has to conclude that it is not in the national interest, not in the interest of a bipartisan system, of a two-party system, one of the very strengths of our country, to pass the bill. Nor is it in the interest of grassroots politics.

Mr. President, let me address another question, if I may. Is the Republican Party the party of big bucks? Is the Republican Party the party of the large contributors, of the so called fat cats? Is the Republican Party the party that relies on the rich?

In October 1986, an article appeared in the Washington Post. I do not have its exact date. The article was written by Thomas B. Edsall. The first paragraph of that article starts off by saying:

> The Democratic Party, which has traditionally claimed to represent the working man and woman, depends substantially more than the Republican Party on the contributions of special interest groups, corporations, and on the large donations of rich individuals.

Think of that, Mr. President. That certainly is not the common perception. It is the Republicans who are supposed to be the party of the rich individuals. It is the Republicans who are supposed to be the party of the special interests. But when you look at the organizations, you come to the conclusion that the Democratic Party is the party which relies on the contributions of special interest groups, corporations, and on the large donations of rich individuals.

Further on in the article, it points out that while givers to both parties are far richer than the national average, "more than half of the Democratic donors earn more than $100,000 a year." An amazing statement, Mr. President. Over half of the donors to the Democratic Party earn more than $100,000 a year.

I thought all those folks were supposed to be over on our side of the aisle, not on the Democratic side of the aisle. And as I read the popular press, I am led to believe that, gosh, we are the party of the rich; we are the party of the big corporations. We are the party that believes in free enterprise and somehow free enterprise is perceived as a collection of large corporations. That is not how I perceive free enterprise. Free enterprise means that I or any other American will have access to the economic wheel; that I or any other American can seek out the so-called American dream, seek out self-fulfillment by earning money and achieving economic reward; that free enterprise means when one succeeds not all of it is taxed away. Free enterprise means that people will have the right to keep a reasonable share of what they produce, and if they can keep a reasonable share of what they produce, they produce more. And free enterprise in this country means a collection not of large corporations, but of millions of small businesses, millions of entrepreneurial types of businesses, millions of small businessmen and women, main street businessmen and women. They are the people who, indeed, support the Republican Party.

Further on in this article, it states:

> The Democrats tend to draw pretty much from national-level bigwigs, while the Republicans, in their direct mail campaigns, reached right down into Main Street across the country.

I agree with that, Mr. President. That is what I tried to do in my campaign. I must tell you I am proud of the fact that 54,000 Minnesotans, 65,000 people overall, contributed to my campaign. That, in my opinion, is what political participation is all about.

Mr. President, I ask unanimous consent that the entirety of this article be printed in the RECORD.

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

FIRMS, LOBBIES AND THE RICH PROVIDE MUCH OF DEMOCRATS' FUNDS

(By Thomas B. Edsall)

The Democratic Party, which has traditionally claimed to represent the working man and woman, depends substantially more than the Republican Party on the contributions of special-interest groups, corporations and on the large donations of rich individuals.

Much of the money the Democrats raise from these sources is "soft money"—direct donations from corporations, lobbying firms and union treasuries, or from persons who have already given the maximum allowed under federal law.

Money from these sources would be illegal if used to promote the candidacy of anyone running for federal office. But the two parties have used a loophole in a 1979 law, designed to encourage the growth of state and local political parties, to raise millions in soft money from corporations, unions and big individual donors.

Raising soft money from corporations and unions, which are not permitted to make direct contributions to political campaigns for federal offices, has been attacked by such reform groups as Common Cause and the Center for Responsive Politics, and by some present and former staff and members of the Federal Election Commission. But the FEC, a politically appointed body, has rejected suggestions that it issue new rules to govern the raising and spending of soft money.

Soft money contributions now account for 28 percent of the annual receipts of the Democratic National Committee (DNC). The Republican National Committee (RNC), by comparison, raises less than 5 percent of its considerably larger budget in soft money.

For the Democratic Senatorial Campaign Committee (DSCC) and the Democratic Congressional Campaign Committee (DCCC), money from political action committee (PACs)—most of which have been set up by trade associations, corporations and unions to influence legislation—now accounts for 27 and 22 percent of reported contributions respectively.

PAC contributions to the two Democratic campaign committees have grown from $271,000 in 1979–80 to $3.3 million in 1983–84, a twelvefold increase.

Today the Senate is scheduled to vote on legislation that would limit PAC contributions to House and Senate campaigns. One proposal to be considered in the Senate would prohibit PAC contributions to the Republican and Democratic parties and would mandate public disclosure of all soft money contributions.

The three major Democratic committees collect at least thirty-five percent of their

funds from PACs and soft money contributors for their Republican counterparts, those sources provide less than 5 percent of total receipts.

All three Democratic Party committees have been able to raise increasing amounts of money from direct mail solicitations, but each receives a far higher percentage of support from PACs and large donors than their GOP counterparts, which raise much more in small contributions from individuals. And in the last 18 months, according to Frank O'Brien, director of direct mail for the DNC, the number of direct mail contributors to the national committee has ceased to grow.

Democratic dependence on special-interest money has had an impact on the substantive positions adopted by the party and its candidates on controversial issues.

In the 1984 presidential campaign, for example, the adamant opposition of real estate developers, a major source of Democratic cash, to the depreciation provisions of tax reform proposals was a significant factor in the decision of officials of Walter F. Mondale's presidential campaign against endorsing tax reform legislation, according to reliable sources within the campaign.

That decision effectively allowed the Reagan administration to gain credit for what has been a Democratic legislative proposal sponsored by Sen. Bill Bradley (D-NJ.) and Rep. Richard A. Gephardt (D-Mo.).

Real estate developers were among the most important fund-raisers and donors to the Mondale effort: Nathan Landow of Bethesda, William Batoff of Philadelphia, Thomas Rosenberg of Chicago, Jess Hay of Dallas, Robert H. Smith of Arlington, Va. "I would say half of the money from our list was from real estate," Landow, who emerged as one of the premier Democratic fund-raisers in 1984, said recently.

In addition, the fund-raising process has prompted key Democratic leaders to take on unusual roles for elected politicians.

The chairman of the DCCC, Rep. Tony Coelho (D-Calif.), for example, sometimes performs the same functions as a lobbyist, providing access to members of the House for campaign contributors, as an integral part of his drive to raise money for the DCCC. Coelho is now the leading candidate to become House Democratic whip after the 1986 elections.

Coelho, whose DCCC expects to raise $2 million to $3 million in soft money during this election cycle and which has already raised $1.6 million from PACs, also takes pride in acting as a broker, joining contributors who want representation on Capitol Hill with favored lobbyists seeking additional clients.

Coelho argued that the services he provides for campaign contributors are the same as he would give anyone "important to the party, be it contributors or noncontributors." He argued that he has pushed hard to increase donations from PACs and from soft money contributors in order to build a television production facility, a headquarters building and to buy computers.

These expenditures have allowed the DCCC to expand its direct mail operations significantly so that they now produce 48 percent of all funds raised, compared with 12 percent of receipts in 1980, according to a Coelho aide.

Along with its dependence on special interest groups, the Democratic Party raises money from individual contributors who are significantly richer than Republican contributors, according to John C. Green, a political scientist at Furman University in Greenville, S.C., who has conducted extensive surveys of campaign contributors.

While givers to both parties are far richer than the national average, Green said his research showed that "more than half the Democratic donors earn more than $100,000 a year and it was only around 43 percent for Republicans. The Republicans reach down lower. The Democrats tend to draw pretty much from national-level big wigs, while the Republicans, in their direct mail campaigns, reached right down into Main Street across the country."

Moreover, according to Green and James L. Guth, a colleague at Furman, their surveys reveal wide divisions among different groups of Democratic donors on basic issues. For example, contributors to trade union PACs are much more enthusiastic about national health insurance than the Democrats' big donors. Indeed, almost as many Democratic donors are hostile to labor unions as favorable to them, Green and Guth have found.

Terry Michael, DNC spokesman, contended that there is no way "to square what is our financial base with our political base."

He pointed out that political contributors—both major givers and those who respond to direct mail appeals—tend overwhelmingly to be upper middle class or affluent, and any substantial effort by the Democratic Party to raise money from "keypunchers or steelworkers" would be futile.

Perhaps the most telling sign of Democratic dependence on special-interest money is reflected in the pattern of major—$500 and more—contributions from individuals reported to the FEC.

During the past year alone, the percentage of large contributions going to the DNC from donors in the Washington area has grown to 19.7 percent of the total, compared with 11 percent from California, 9.7 percent from New York and 6.4 percent from Texas.

This represents more than a doubling of the proportion of Washington-area major contributions, signaling a much stronger presence for the "inside the Beltway" lobbying community in Democratic Party finances. In the 1983-84 election cycle, Washington-area contributors made up 9.1 percent of the major donations from individuals. In that period, California dominated with 20.4 percent, in part because the party chairman, Charles Manatt, was from California, but New York was also much more important, providing 18.1 percent, along with Texas, which supplied 8.3 percent.

In contrast, Washington-area major donations to the Republican National Committee—though greater in dollar terms than the Washington-area donations to the Democrats—amounted to 7.3 percent of the GOP total in 1985, the most recent period for which figures are available from the FEC, and to 5.1 percent in 1981-82.

C. Victor Raiser II, DNC finance chairman, said he and Paul G. Kirk Jr., DNC chairman, are making a concerted effort "to develop new sources of support outside the Beltway." Raiser contended that this drive is beginning to pay off, particularly in the South.

Meanwhile, the party is doing well raising soft money from special interests. For the first seven months of this year, a total of 28 percent of the DNC's budget, or $1.6 million out of $5.7 million, came from unreported donations of soft money. The DNC does not disclose the identity of contributors of soft money.

Soft money is illegal if it is spent on behalf of a party's nominees for federal office. How it can legally be spent is a matter of intense debate among the small group of lawyers who follow the election law. It is accepted that corporate and union money can be used for building party headquarters, buying computers and similar capital expenditures not connected to a specific campaign.

Both the DNC and RNC also raise soft money for state and local candidates and for state parties where there are no restrictions on contributions. In 1984, Mondale backers used the DNC to raise $5.3 million in soft money for get-out-the-vote and voter registration programs, much of it channeled to state party organizations. If the cash had gone directly to the Mondale campaign, it would have violated the law.

The DCCC, under the leadership of Coelho, has aggressively sought out soft money support. In this election cycle, according to DCCC officials, the committee will raise $2 million to $3 million in soft money, out of a total budget of $15 million.

In contrast to the DNC, which gives general figures but refuses to identify soft money donors, the DCCC does list soft money contributors who donate specifically for capital projects. The DCCC also gave a reporter copies of campaign expense reports filed in California, where the committee used soft money to fight Republican efforts to kill the state's redistricting plan.

The names of those DCCC donors provide a glimpse of who is giving the party this soft money. Major contributors include Merchant Sterling Corp., which was chaired by W. Averell Harriman, who died last month, $150,000; International Brotherhood of Painters and Allied Trades, $50,000; Phillips Petroleum, $15,000; Chevron Corp., $10,000; Atlantic Richfield, $20,000; the Tobacco Institute, $40,000 and the lobbying firm of Camp, Carmouch, Palmer, Barsh and Hunter, whose clients include many major oil companies, $55,000. These contributions are, in most cases, made in addition to individual and PAC contributions reported publicly under federal election law.

Figures provided by the DNC showing general sources of soft money (committee officials declined to identify specific donors) show that over the past five years, corporate money has become far more important than union money.

In 1982, the DNC received a total of $2.92 million of soft money, of which $1. . . . million, or 61 percent, came from corporations; and $218,519, or 8 percent came from rich individuals.

So far this year, union contributions to soft money accounts have dropped to just 34 percent of the total, or $542,381 out of $1.56 million; while corporate contributions have grown to 57 percent of the total, and individual contributions remain virtually the same at 9 percent.

In 1984, when the Mondale campaign and the DNC raised $5.3 million in soft money, just under half—$2.37 million, according to campaign documents obtained by the Washington Post—came from labor unions, particularly the Operating Engineers $225,000; the International Ladies Garment Workers, $150,000; the Sheet Metal Workers, $250,000; the Steelworkers $303,000; and the United Auto Workers $372,800.

Mr. BOSCHWITZ. Continuing on in this article, Mr. President, it is interesting to see from where the contributions come: 19.7 percent of all the large contributions come from the Washington, DC area, people who un-

doubtedly have a vested interest in government, 11 percent are from California, which really is not disproportionate. I think they have 11 percent of the population. Ten percent are from New York, and 6.4 percent are from Texas. Perhaps that is more representative of their populations. So it is not open to criticism.

I quote from the article once again: "A much stronger presence from the inside-the-beltway lobbying community is Democratic Party finances than Republican finances." We rely principally on main street. That is where the action is. That is where we want to be.

There was also an article that appeared in the Wall Street Journal yesterday. There, too, it points out that the income of the Republican campaign committees, including the committee of which I am chairman, the Senate Republican Senatorial Campaign Committee, is down. We lost the majority and our income is down. I suppose that is to be expected. In contrast, party income increased after the 1984 election and the great successes that we had at that time. So I suppose it is logical that they should now be down. We do not like it. But nevertheless it happens.

On the other hand, the Democrats most recently are the winners. So perhaps there is some logic to their contributions rising. The headline of the article says, "GOP Income Falls Sharply as Reagan Era Ends; Big Givers, PAC's Spur Rise in Democratic Gifts." The article says in the second paragraph, "Democratic contributions meanwhile are rising bullishly, but entirely"—I underline the word "entirely"—"because of gifts from big donors and special interest groups. Small gifts to the Democrats are slipping a bit."

And, indeed, that is a continuation of the story that has existed and that was reported in 1986. Republicans still are the party of small donations, with well over half of the donations, indeed, I believe over 60 percent of our donations coming from small donors. And that is the way it should be. We have a good base of support and that is the way we want to keep it. We want to increase the broad base of support that we have.

Our support after the 1986 election has gone down. We have received less from small contributors. I call upon them to renew their efforts because we need the money. And indeed, the people of the United States should participate in the political process. Many choose to participate by contributing their money, rather than their time. That is a privilege that we should in no way hinder, that we should in no way withdraw.

I ask unanimous consent, Mr. President, that at this juncture, the Wall Street Journal article from February 22, 1988 be entered in the RECORD.

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

[From the Wall Street Journal, Feb. 22, 1988]

GOP INCOME FALLS SHARPLY AS REAGAN ERA ENDS; BIG GIVERS, PAC'S SPUR RISE IN DEMOCRATIC GIFTS

(By Brooks Jackson)

WASHINGTON.—Campaign-finance reports show Republican Party income is dropping sharply as the Reagan era draws to a close, reflecting a rapid decline in both large and small gifts.

Democratic contributions meanwhile are rising bullishly, but entirely because of gifts from big donors and special-interest groups. Small gifts to the Democrats are slipping a bit.

The GOP's three main national committees still maintained better than a 3½-to-1 advantage over their Democratic counterparts last year, but that lead was down from the nearly 6-to-1 edge they enjoyed in 1985, the previous non-election year.

Republicans took in $68.5 million during 1987, a 29% decline from the earlier period. The decrease ushered in unaccustomed austerity; the National Republican Congressional Committee, for example, cut its staff by half in 1987, to about 60 people currently. Its rival, the Democratic Congressional Campaign Committee, expanded its staff to 65, making it the larger of the two for the first time.

Democratic committees took in $19.3 million last year, a 20% increase from 1985. But there was a 4% decline in gifts from people giving less than $200 during the year. Gifts from large donors soared 61%, and income from political-action committees rose 33% or 62%.

The increased income allowed Democrats to spend $125,000 last year to purchase a microwave link connecting their elaborate television studio here to a commercial ground station. This enabled 43 Democratic House members to feed political commentary back to hometown TV stations via satellite immediately after President Reagan's State of the Union address last month.

AGGRESSIVE OUTREACH

The Democratic congressional committee's chairman, Rep. Beryl Anthony of Arkansas, says more than 50 Democractic House members solicited funds for the committee. Speaker James Wright traveled to fund-raising events in 19 cities last year.

Even so, the committee's income rose mainly because of a 62% increase in PAC donations, which Rep. Anthony said was mostly the result of an "aggressive outreach program" by the committee's former chairman, Tony Coelho of California, in 1986. PACs pay $15,000 a year to join the "Speakers Club," which entitles lobbyists to meet socially with Mr. Wright and other senior House Democrats during the year.

The congressional campaign committee got 30% of its income from PACs last year, up from 20% two years earlier. And as Senate Democrats unsuccessfully tried to pass a bill to limit campaign spending and PAC donations, their own senatorial committee took in more than $1 million from PACs, accounting for 20% of its total. Overall, Democratic Party groups got 18% of their funds from PACs, compared with only 1% for the GOP.

Republicans got 61% from small donors in 1987, a slightly lower percentage than before. Democrats got 45% of their money from small givers, down sharply from 56%. The Democratic Senatorial Campaign Committee more than doubled its income from large donors, who accounted for 56% of its revenue. Many wealthy givers rushed to make domations just before the end of the year, so their gifts wouldn't count against annual limits for 1988. (Federal election law forbids individuals from giving more than $25,000 a year to federal candidates, party committees and PACs.)

Regaining a Senate majority helped Democrats financially. "There are people from the business community who I'm sure are giving more now that we're in control," says Robert Chlopak, executive director of the party's senatorial committee. On the Republican side, falling into minority status demoralized donors and "took the wind out of our sails," says Jann Olsten, executive director of the National Republican Senatorial Committee. Small-donor income plunged 49% in 1987, though Mr. Olsten says it is rebounding now.

NORTH'S COATTAILS

The Iran-Contra hearings also hurt, Mr. Olsten says, by creating a poor political environment for Republicans. Even so, Rep. Guy Vander Jagt, chairman of the GOP congressional committee, capitalized on the brief surge of "Olliemania" following the televised testimony of Lt. Col. Oliver North. He sent a fund-raising letter announcing the committee would make a $50,000 donation to Col. North's legal defense fund. It produced more money for the committee than any letter sent in the previous two years, the congressman says.

Mr. Vander Jagt fears his donors have grown complacent. "People are thinking, the conservative Republicans, that Reagan has done it all, he's solved the problems, he's lowered inflation and interest rates and put people back to work," he says. He cheerfully predicts that donors will reopen their checkbooks as campaigns heat up: "Things will get better in 1988."

Meanwhile, to compensate for the decline, Rep. Vander Jagt last September set up a National Advisory Board whose members each pledged to raise $50,000 a year in large gifts. And a spokesman said the GOP senatorial committee recently began a program to increase its income from PACs.

Mr. BOSCHWITZ. Mr. President, the junior Senator from Oregon, Mr. PACKWOOD, has spoken at some length about the Presidential races. I confess that I did not listen to his entire speech, and in the event I am repetitious, I apologize.

Starting 10 or 12 years ago, the Presidential races were opened up to public financing. And the rules under the Presidential races are so complex that, as my friend from Oregon has pointed out, $1 out of $4 that is spent is spent for lawyers and accountants. You normally think of tax bills to be relief bills for the lawyers, but now we must add to that campaign reform bill act because lawyers have profited the most.

But not only the lawyers have profited. We have with great regret financed some candidates who really are not worthy of the name. In 1984, Lyndon LaRouche, for example, received $½ million from the American taxpayers. One half million dollars in

tax dollars in order to run his Presidential campaign; a campaign that really brought no credit to the American agenda.

This year we have Lenora Fulani who is not exactly a household word in American politics. She is a psychologist from New York. Three weeks ago she received $200,000 from the Federal Election Commission to match funds that she had raised, I believe, at a couple of concerts, where at least as has been related by my colleague from Kentucky, Senator MCCONNELL, many of the people did not even know that they were at a political fundraiser. They were there for the concert. But the price of admission was matched by the Federal Treasury. How many of these people will become involved in the race? It is not terribly difficult to qualify for matching funds under the existing law or under S. 2. In fact, it is even easier under S. 2 than under existing law.

That really is not the way that we want to go in this process. This is not a reasonable way to finance campaigns. The American taxpayers should not be taxed to do something that is now being privately subscribed to. Presidential races have not really had any success at public financing.

David Broder, who is perhaps the most respected political correspondent in America, has written in the Washington Post:

> There is a cost to public financing. Public financing in Presidential campaigns has meant the virtual shutdown of local headquarters financed by small contributions.

In other words, when you put a limit on campaign spending, you also put a limit on grassroots involvement. The people who will consult and the people who will plan these campaigns will try to take the largest portion of campaign dollars and put it into even more expensive TV commercials. Then they will take large portions of the stipulated amount that can be spent on campaigns and make more and more beautiful and more and more complex TV commercials that will cost more and more. The ability to spend moneys or to direct moneys at grassroots campaigns, at storefronts throughout the United States, the amounts of money that are required to involve people simply will not be there.

It is not cheap to involve people in the political process. It does not come free. Some people who are regular members of the Republican Party or Democratic Party, perhaps they come time and again. But the candidate cannot rely on only them. And in many parts of the country, there is not a strong party. This fact returns me once again to the South where there is not a strong Republican Party. By limiting the amounts of money that can be spent in those regions, particularly, you will absolutely preclude a Republican from gaining statewide political office. That is something that will undermine the political system.

The distinguished President of the Senate looks up as I make that statement. I must say to my friend, the Presiding Officer, that earlier on I pointed out that in that area of the country where approximately a quarter of all the Members come from, we have no infrastructure. The Republican Party has no infrastructure. If we are limited to a sum certain, and that limitation would be stacked up against the Democrats limited to that same sum certain, we will effectively preclude and eliminate our ability to represent an entire segment of the United States.

Grassroots democracy will be severely undermined by this bill, because grassroots involvement in the political process will be severely limited.

As a matter of fact, Mr. Broder said in the article I earlier referred to about the Presidential process: "Grassroots democracy has died."

Indeed, limiting the amounts that can be spent in the political process will effectively exclude grassroots type of participation. More and more money will be spent. But it will be found to be a more efficient use of the funds in the mass media. It will not be found to be an efficient use of the funds to build a grassroots operation. A choice will have to be made. Both will not be possible under the limitations of this bill. A choice will have to be made. For a person who is challenging an incumbent, if that person has no name recognition, the choice, of necessity, will be that he or she runs his or her campaign on TV. Grassroots democracy will be undermined. Grassroots democracy will suffer a severe blow, as it has, in my judgment in the Presidential process.

If that is to be avoided, then some of the things that my friend from Oregon mentioned, some of the subterfuge that has taken place with every major political candidate since the law was put into effect, gross violations of the law, will become the order of the day. Loss of respect for the process becomes the order of the day. It is the only way.

If you go to Iowa, then you stay overnight in Moline, IL, on the other side of the line, and charge it to the Illinois campaign. It is a far larger State in population and a far larger amount of money can be spent. It also comes later. You may never get to Illinois.

Or, if you are over in the western part of Iowa, you stay overnight and rent your car in Omaha. Then during the day you do your business in the western part of Iowa.

Further, you spend your money on Omaha TV, and you charge the funds to Nebraska.

I believe the Senator from Oregon spoke about New Hampshire. Most of New Hampshire gets its television from Boston, so the moneys are spent there. You write it up against the limit you can spend in Massachusetts, when indeed you are addressing the voters of New Hampshire. In fact, there is no election at that time in Massachusetts. Yet, there is this enormous amount of money that is spent on Boston TV—all charged to the Massachusetts race, when in fact it properly should be charged to New Hampshire.

Perhaps my State of Minnesota gains a little bit as people campaigning in Iowa come up and stay across the border and charge the cost of their lodgings and the cost of their transportation and meals to the Minnesota race. Then in the daytime they slip across the line and work the precincts of Iowa. Is that the kind of law enforcement and respect for the law that we want to engender? Certainly not. But that is what has happened.

One of the candidates on the other side of the aisle spent the entire appropriated amount he was allowed to spend in Iowa on a TV campaign. But in addition, he had as many as 120 paid employees in the State of Iowa, canvassing every county, in order to win a victory. Yet, he stayed within the limitations in a legal way, perhaps, but certainly not within the intent of the law.

Such manipulation makes a mockery out of the political process. We really should call a spade a spade and say that you cannot hold down the amount of money that is spent in the political process.

If you say that a committee can only spend a certain amount, then more committees are formed. If you say that a political action committee cannot give $5,000 to a candidate but only $1,000 or $2,000, then more political action committees will be formed, so that the same amounts of money will be present.

If you specify a total contribution of a political action committee to a particular campaign, a sum certain, then those political action committees will learn to raise money and will give their money to a new political action committee that will gather moneys together from other political action committees and use it for independent expenditures that will not be charged to the candidate. That, of course, is possible. We now see these large independent expenditures on the political scene. Our best efforts to reform the system often are frustrated in one way or another.

Again, Mr. President, the whole business of political action committees, the whole business of PAC's, has been developed for the purpose of reforming the system. PAC's, or political action committees, developed out of the period of 1972–74, as I indicated earlier, and they were a reform. Now

we find ourselves reforming the reform that reformers cast upon us some years ago.

I say again, in defense of political action committees, that more people give to political action committees than give to all the Senate races combined. I am told that people who give to Senate races, however, have more interest and have more knowledge and are better informed than people who give to political action committees. I cannot contest that. I do not know if that is the fact or not, and I suppose the person making the statement does not know if it is a fact or not, either; but it is hard to contest something like that. But are we supposed to gauge involvement in the process in degrees now, or is the very fact of involvement enough?

My experience in life has been that interest normally follows a person's money; that if the person makes a contribution to the campaign, no matter how small, that person will follow his or her money with a vote, and that person will also become more interested in the political process.

Indeed, PAC's have interested millions of people in the political process who were not involved in it before. That, in my judgment, is quite an accomplishment. That was the purpose of the reform when it was instituted and when it was voted for in this body some years before I arrived here.

But that is good politics, Mr. President, involvement of more people. It strengthens our democratic institution. It strengthens our Republic. It strengthens the very fiber of our Nation.

Mr. President, one of the things that I spoke about on the floor when I last spoke about this subject some months ago was the law of unintended effects. That you simply are unable to hold down the influence of funding in the political process. By trying to hold it down on the one side, it pops up on the other side. That has been the history of trying to control political funding.

We see that happening now in the Presidential races, as I have indicated before. Money is expended in one State and charged to another State.

Senator PACKWOOD pointed out that $50,000 worth of automobile expense were charged to other States and the cars never saw the roads of those States. They were charged on credit cards in other States. All kinds of evasive means are found to bring money into the political system. As I have indicated, this is a probable, unintended effect of reform legislation. If you have PAC's who have raised $132 million in this past cycle, and you now must recognize that PAC's are capable of doing that, and then you limit the participation of political action committees in the political process so they can only spend $80 million of that $132 million, the other $52 million, Mr. President, will not go away. It will somehow be funneled into the political process and it will not be reported as it is today. It will not be done in a manner that the public can observe. It will be done in an unreported way. It will be done as a soft money expenditure which this bill that we oppose in no way controls.

Earlier I gave the example, Mr. President, of PAC's giving to other PAC's, of new political action committees being formed with contributions of existing political action committees. Let us say an existing political action committee raises $400,000 or $500,000. It cannot give it all away or chooses not to give it all away and says, well, we will give some money to another PAC, a newly formulated PAC. Further, that PAC collects together moneys from other PAC's and now has enough to make an independent expenditure, none of which has to be reported and none of which will come to the public eye.

Those are the kinds of unintended effects about which I speak.

I would be in favor, Mr. President, of a campaign reform law that expanded the reporting of political contributions, that brought out into the sunlight political contributions from whatever source, which brought out into the sunlight not only the hard political dollars given directly to a candidate or to a campaign, but also the soft money that enters into the political stream. The soft money has just as much influence and gains just as much access and does the same damage that is claimed, perhaps even more than is claimed for the reported money.

I think that a bill that brings sunshine into the process, that opens up the process, that reports every dollar that comes into the process, will be a more constructive measure of reform, rather than trying to limit the exact spending, which would effectively preclude my party from many States of the Union and would put an intolerable burden on a challenger.

That is not the object and the purpose of reform.

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. INOUYE. 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 Hawaii.

Mr. INOUYE. What is the question before us?

The PRESIDING OFFICER. The pending question is on amendment No. 1405, as modified.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I have a paper entitled "Academicians on Expenditure Limitations." I am going to read for some length from it, but I ask unanimous consent that the entire paper be printed in the RECORD.

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

ACADEMICIANS ON EXPENDITURE LIMITATIONS

AUGUST 4, 1987.

There are three basic reasons why expenditure limits are bad policy as recognized by the leading academicians in this area:

I. EQUAL EXPENDITURE LIMITS ARE NOT EQUAL

A. Labor Unions

Herbert E. Alexander, in his generally recognized authoritative book, "Financing the 1984 Election," estimates the worth of union activity on behalf of the Mondale campaign during the pre-nomination period ranged between 10-20 million dollars. In the general election campaign, he estimates approximately 20 million more dollars were spent by labor unions on behalf of the Mondale-Ferraro ticket. In 1976 at least 11 million was spent by unions for the Carter-Mondale ticket.

The "success" of an equal expenditure limit and public financing in the Presidential campaign is often cited as the reason it should be extended to Congressional elections. Clearly unequal resources were available during both the general election and primary periods because of the vast union expenditures. These are in no manner restricted by the Boren proposal nor is any significant disclosure required.

"COPE and other labor groups have vigorously pushed for public financing. . . ." (COPE's director John Perkins is frank to say why: "We'd just like to stick to registration and voter contact; that's what we're best at, and if we could put all our resources there, we could make a far greater contribution to our candidates."—Dr. Larry J. Sabato, University of Virginia, PAC Power, p. 178.

B. Incumbency

It is universally recognized by political scientists who specialize in this area that equal campaign expenditure limits between incumbents and challengers are unequal.

"A ceiling on expenditures, by contrast, almost certainly benefits incumbents since challengers must usually spend a great deal more than average to upend an incumbent. Moreover, a ceiling restricts the flow of communications between candidates and voters, . . ."—Dr. Larry J. Sabato, University of Virginia, PAC Power, p. 179.

"Enough for both sides to mount a respectable campaign does not require equality of resources or equality of expenditures. Non-incumbents in fact require more. So do those running against famous names. Candidates are frequently unequal in so many ways. Requiring equality of finance merely emphasizes these other inequalities and prevents less well-known candidates from access to one of the few resources available that they can use to catch up.

"Suppose one candidate spends a great deal more money? Chances are it will be mostly wasted: the law of diminishing returns applies here. In addition, attempts to buy an election can become a political issue in and of itself."—Dr. Nelson W. Polsby, Professor of Political Science, Univ. of California, Berkeley, Kennedy School of Gov-

ernment, Harvard Univ., Commonsense, Dec. 1983, p. 37.

"In technical terms, the marginal return on campaign expenditures (in the form of votes) is much greater for challengers than for incumbents. This means that if spending by both the challenger and the incumbent increases by the same amount, the challenger's share of the vote will increase; if spending by both candidates decreases by the same amount, the incumbent's share of the vote will increase. The crucial variable in either case is the amount spent by the challenger.

"What are the implications of these findings for campaign finance policy? One obvious conclusion is that, in general, any policy that increases the amount of money available to candidates will help challengers. And it is also plain that contribution or spending limits, or any other measures that restrict the amount of money spent in campaigns, will, if they have any effect at all, help those already in office."—Dr. Gary C. Jacobson, Professor of Political Science, Univ. of Calif. San Diego, LaJolla, CA—Hearings, Task Force on Elections, U.S. House of Representatives, Sacramento, CA, August 22, 1983.

". . . Spending limits work the other way. In the aggregate, with some exceptions that grow out of the peculiarities of individual races, spending limits would favor incumbents and would be felt most heavily in the most competitive districts."—Dr. Michael J. Malbin, American Enterprise Institute, Money and Politics in the United States, p. 240.

"A major advantage of incumbency is control of official resources for reaching and serving constituents. The estimated value of official resources available to Members of the House is approximately $1 million over a two year period. . . . Professor Gary Jacobson, a leading expert on congressional elections, estimated in 1978 that the average House challenger would have to spend "in the order of $320,000 to become as familiar [to constituents] as the average incumbent" (The Politics of Congressional Elections, 1983, pp. 54-55).

"Expenditure limits work to the disadvantage of nonincumbents and discourage electoral competition.—Keeping in mind that it is challengers, not incumbents, who benefit most from campaign spending, such proposals have a definite anti-challenger and anti-electoral competition bias.

"Candidates are often unequal in many ways (e.g., name identification, partisanship of the constituency). Public financing/expenditure limit regulations, by requiring equality of finance, would merely emphasize these other inequalities and prevent less well known candidates from gaining access to the key resource that might enable them to catch up.

"Fostering Citizen Participation.—Political science research has shown that voter turnout is encouraged by competitive elections. Therefore, if voter turnout in congressional elections is to be encouraged, it is essential that no unduly severe limits be imposed upon candidate spending—particularly nonincumbent spending. Such limits disadvantage nonincumbents and thereby hold down competition. Voter turnout in the United States is already below that of other Western democracies and nothing should be done in the name of electoral reform to worsen that situation."—Dr. John F. Bibby, University of Wisconsin-Milwaukee, Statement before Subcommittee on Elections, House Administration Committee, June 16, 1987, excerpts from pp 2, 3, 5, and 7.

II. HOW MUCH IS TOO MUCH MONEY?

It is a common misperception that elections in the United States are more expensive than in most other countries. Dr. Howard Penniman has conducted some studies in this area reaching exactly the opposite conclusion

"Calculating campaign costs on the basis of expenditures for eligible voters makes it possible to compare costs for units that are identical in all democracies. Comparing the absolute costs of campaigns in different countries only points up the obvious fact that it is more expensive to send messages to many people than to a few.

"The cost per eligible voter in the United States is considerably less than in Venezuela, the Federal Republic of Germany, Israel, and Ireland for comparable elections. The cost in Canada is higher than in America, if the value of free television and radio are included. Because of the absence of data, it is not easy to know how United Kingdom costs compare to ours.

"In preparing this essay it was striking to find that in most of the twenty countries with 1.5 million voters and twenty-five years of continuous democratic practice, there is neither adequate financing data nor recognized experts with the knowledge and experience to make informed and generally accepted judgments of costs. Nearly half of the countries require *no* reports from parties or candidates. Half of the remainder have laws requiring limited information, or enforce their laws so casually that the reports are incomplete, implausible, or both.

"Under these circumstances, any inclusive assertions that electoral campaigns are conducted at a much lower cost in all other democracies are made without sufficient data or by using criteria that are clearly inadequate. If the six countries whose expenditures were examined here are indicative, it is probable that the per eligible voter costs are less in the United States than in most other democracies."—Dr. Howard Penniman, American Enterprise Institute, resident scholar. Article in The Mass Media in Campaign '84, p. 55.

"Compared with some other categories of spending, however, spending for political campaigns is low. The amount spent in 1983-1984 is substantially less than the $2.4 billion that the nation's three leading commercial advertisers—Procter and Gamble, General Motors, and Sears—spent in 1984 to proclaim the quality of their products. It represents a mere fraction of 1 percent of the $1.4 trillion spent in 1984 by federal, state, and local governments. And, as one journalist noted, it is 'just a fraction of what we spend on cosmetics, pet food and illegal drugs.'"—Herbert E. Alexander and Brian A. Haggerty, Financing the 1984 Election, p. 81.

III. UNENFORCEABILITY

". . . As long ago as 1926, political scientist James Pollock wrote that imposing limits on the size of campaign contributions was futile 'because the regulation, being unreasonable, will be circumvented, just as similar requirements have almost always been circumvented.'

"In a political system such as that of the United States, animated by a variety of competing interests each guaranteed freedom of expression, a tightly drawn system of campaign contribution and spending limits will inevitably encounter great difficulties."—Herbert E. Alexander, Financing the 1984 Election, p. 411.

"Among these problems, we feel the most troublesome are related to the attempt to restrict the spending of money spent by those seeking to influence the outcomes of presidential campaigns. . . . The limitations upon expenditures have become increasingly restrictive and have spawned a whole series of serious problems of definition, allocation and enforcement. On the other hand, the effort to control total spending in presidential races has not succeeded."—Executive Summary, p. 1, Financing Presidential Campaigns, Inst. of Politics, John F. Kennedy School of Government, Harvard Univ., Jan. 1982.

"The FECA has not succeeded in limiting the growth of money spent in presidential contests. While the Act has, in fact, limited spending by those actually contesting the election, it has not been able to hold growth in the total amount of money finding its way into presidential elections.

"The Act restricts both campaign organizations and political parties, in a way that unduly dictates their political strategies. What should remain political decisions have, in effect, become accounting decisions.

". . . The Act has not succeeded in arresting the upward spiral in campaign spending.

". . . Increases have come about, therefore, through conduits which are not under the control of the candidates, although in some instances this spending may be 'coordinated' with the campaign organization. . . . Spending by labor unions and corporations for 'internal communications' is also outside the candidate's direct control. Moreover, we cannot be sure if these expenditures are increasing, since by and large they do not have to be reported to the FEC."—Financing Presidential Campaigns: Recommendations of Camp. Finance Study Group, ed, By Christopher Arterton, Chm, Chapter 1, excerpts fr. pp 4, 6, 15, & 16.

Mr. PACKWOOD. Mr. President, I would also ask that this speech not be counted as a speech within the two-speech rule.

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

Mr. PACKWOOD. Mr. President, this paper is entitled "Academicians on Expenditure Limitations."

There are three basic reasons why expenditure limits are bad policy as recognized by the leading academicians in this area:

I. EQUAL EXPENDITURE LIMITS ARE NOT EQUAL

A. Labor unions

Herbert E. Alexander, in his generally recognized authoritative book, "Financing the 1984 Election," estimates the worth of union activity on behalf of the Mondale campaign during the pre-nomination period ranged between 10-20 million dollars. In the general election campaign, he estimates approximately 20 million more dollars were spent by labor unions on behalf of the Mondale-Ferraro ticket. In 1976 at least 11 million was spent by unions for the Carter-Mondale ticket.

The "success" of an equal expenditure limit and public financing in the Presidential campaign is often cited as the reason it should be extended to Congressional elections. Clearly unequal resources were available during both the general election and primary periods because of the vast union expenditures. These are in no manner restricted by the Boren proposal nor is any significant disclosure required.

And I would quote now from Dr. Larry J. Sabato, University of Virginia, in his book PAC Power, page 178.

"COPE and other labor groups have vigorously pushed for public financing * * * *" (COPE's director John Perkins is frank to say why: "We'd just like to stick to registration and voter contact; that's what we're best at, and if we could put all our resources there, we could make a far greater contribution to our candidates.")

The second reason why expenditure limits are bad and unfair is incumbency, and here again I am quoting from a variety of academics:

B. Incumbency

It is universally recognized by political scientists who specialize in this area that equal campaign expenditure limits between incumbents and challengers are unequal.

"A ceiling on expenditures, by contrast, almost certainly benefits incumbents since challengers must usually spend a great deal more than average to upend an incumbent. Moreover, a ceiling restricts the flow of communications between candidates and voters. * * *"

There I am quoting again from Dr. Larry J. Sabato, University of Virginia, PAC Power, 1979.

Next Dr. Nelson W. Polsby, professor of political science, University of California, Berkeley, and Kennedy School of Government at Harvard University, in a book Commonsense, December 1983:

"Enough for both sides to mount a respectable campaign does not require equality of resources or equality of expenditures. Non-incumbents in fact require more. So do those running against famous names. Candidates are frequently unequal in so many ways. Requiring equality of finance merely emphasizes these other inequalities and prevents less well-known candidates from access to one of the few resources available that they can use to catch up.

"Suppose one candidate spends a great deal more money? Chances are it will be mostly wasted: the law of diminishing returns applies here. In addition, attempts to buy an election can become a political issue in and of itself."

Next from Dr. Gary C. Jacobson, professor of political science at the University of California, in San Diego, on the hearings on the task force on elections before the U.S. House of Representatives.

"In technical terms, the marginal return on campaign expenditures (in the form of votes) is much greater for challengers than for incumbents. This means that if spending by both the challenger and the incumbent increases by the same amount, the challenger's share of the vote will increase; if spending by both candidates decreases by the same amount, the incumbent's share of the vote will increase. The crucial variable in either case is the amount spent by the challenger.

"What are the implications of these findings for campaign finance policy? One obvious conclusion is that, in general, any policy that increases the amount of money available to candidates will help challengers. And it is also plain that contribution or spending limits, or any other measures that restrict the amount of money spent in campaigns, will, if they have any effect at all, help those already in office."

Mr. President, I plan to go on a bit further, but I want to digress from the quote.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I do not wish to interrupt his statement, but it sounded to me as if he had reached a point in his discussion of this matter that a question would be appropriate.

Mr. PACKWOOD. I am happy to yield for a question.

Mr. ARMSTRONG. My question is that, as I understand it, we have before us a motion to recommit the bill and then a lengthy tree of amendments.

Mr. PACKWOOD. That is correct.

Mr. ARMSTRONG. The scuttlebutt around the cloakroom is that this is going to be an evening of thought and reflection and discussion, possibly punctuated by a series of essentially meaningless procedural votes. The probability is that at some point we will have a vote to instruct the Sergeant at Arms to recall absent Senators and there might be, at least according to rumor, some of the sponsors of amendments may move to table their own amendments in order to obtain rollcall votes on them and, thereby, sort of stir the pot. But I am wondering if the Senator could enlighten us. Is it the Senator's belief that I have accurately summarized the situation, that from now until tomorrow or at least until tomorrow that what would occur would be speeches and votes of essentially a nonsubstantive character?

Mr. PACKWOOD. I think so, unless you were to count—and I see the majority leader coming on the floor. The majority leader, obviously, can get recognition and get priority if he wants it. I suppose if he were to move to table the amendments, and I assume vote against them, that might be thought of as a substantive vote. There is nothing we could do to prevent a vote like that. But, short of that, I think the likelihood of a substantive vote tonight is de minimis.

Mr. ARMSTRONG. The reason I ask the Senator that, may I explain, is simply to sort of plan my own schedule for the balance of the evening and through the dark hours of the night and into tomorrow morning, and also to be helpful to other Senators who may be going through the same thought processes. My own conviction is that a vote to instruct the Sergeant at Arms is actually not a meaningful vote. It is an official vote and, for those who are concerned about maintaining a high-percentage attendance, it would be counted against them if they failed to respond to that matter.

My own feeling is that at this stage a vote to table the pending amendment would fall into the same category. But then each Senator could decide that for himself. But if the Senator has a view of the status of things, then, in your opinion, would it be correct to say that what we are looking forward to is a night of speeches and votes on procedural matters?

Mr. PACKWOOD. I think that is my opinion. But I do see the majority leader here and I would be happy, for the moment, to yield if he could respond to the question the Senator from Colorado is posing.

Mr. BYRD. The Senator did not ask me the question.

Mr. PACKWOOD. That may be your answer.

I would be happy to go to a cloture vote tonight; now, half an hour from now, an hour from now.

Mr. ARMSTRONG. May I ask the Senator, would it require unanimous consent to do that?

Mr. PACKWOOD. It would require unanimous consent.

Mr. ARMSTRONG. I, for one, would have no objection to that. And, in fact, if the Senator from Oregon would propound such a unanimous consent request, I would lodge no objection to it.

Mr. PACKWOOD. I think I would talk to the majority leader before I would propound that. But I might say I think most of the people on this side would be happy to have a cloture vote.

Mr. ARMSTRONG. Mr. President, I do not want to try the patience of the Senator from Oregon.

Mr. BYRD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. BYRD. For a question?

Mr. PACKWOOD. Yes.

Mr. BYRD. He can only yield for a question.

Is there a cloture motion pending?

Mr. PACKWOOD. To the best of my knowledge, there is not a cloture motion pending. Is there?

Mr. BYRD. The Senator has answered the question.

Mr. ARMSTRONG. I note the Senator from Oregon has what appears to be a very extensive statement and I do not want to delay him in his presentation of his thoughts on the bill, but just to confide to him my own plans. They run along this line: At 9 o'clock, from 9 until 11, the third——

Mr. BYRD. Mr. President, I ask for the regular order. The Senator can yield only for a question.

The PRESIDING OFFICER. The majority leader is correct. Regular order is called for.

Mr. ARMSTRONG. Mr. President, I am in the process of stating still another question. I have propounded two or three questions to the Senator from Oregon. I believe I am proceeding within the regular order.

The PRESIDING OFFICER. The Senator may state his question.

Mr. ARMSTRONG. Mr. President, my question is this: The plan I have in mind for my schedule this evening is from 9 to 11 there is a television broadcast of the third installment of a

miniseries which I found very interesting called "Noble House." I kind of would like to be home to watch that, although I could watch it here. My question is this: Does the Senator need me to speak sometime during the night and, if so, at what hour? I would be glad to come back. I have a couple of hours worth of material that probably would be deserving of the attention of the body and I would be glad to do that tonight or tomorrow morning. But being one Senator who would not regard a vote on a motion to instruct the Sergeant at Arms as something I would particularly like to lose a night's sleep over, I will either stay or go depending on the advice of the Senator from Oregon. Or would he prefer to consult me later on that?

Mr. PACKWOOD. No, I think, on balance, in terms of the very good material that I know the Senator from Colorado will have, I think we will probably use it more usefully at a later time than this evening.

Mr. ARMSTRONG. I thank the Senator. On that cheery note, I expect I will disappear shortly and see you tomorrow.

Mr. PACKWOOD. I think we will need it at some time, I might add.

Mr. ARMSTRONG. If the Senator will yield further, let me just say, I would not miss the opportunity to comment further on this bill.

Mr. PACKWOOD. Now, Mr. President, I was reading from the memorandum "Academicians on Expenditure Limitations." I finished two pages of it; the last paragraph I will read again. This is a quote from Dr. Gary Jacobson, professor of political science at the University of California in San Diego, in which he is commenting on the effect of campaign limitations and equal expenditure limitations for the incumbent and the challenger. This is what he says:

> What are the implications of these findings for campaign finance policy? One obvious conclusion is that, in general, any policy that increases the amount of money available to candidates will help challengers. And it is also plain that contribution or spending limits, or any other measures that restrict the amount of money spent in campaigns, will, if they have any effect at all, help those already in office.

Now, deviating from the article, it is understandable why that is true. Earlier today, I talked about some of the advantage that incumbents have, but I would like to cover that ground again. One is just sheer name familiarity. Once you are a U.S. Senator or a Governor, you develop a great deal of familiarity. You are on the news, in the newspaper, you are at home speaking. And, finally, after you have been in the Senate 5 years and you are ready to run for reelection after your first term, if you were to pose the question, the pollster who asked this question: Do you know who BOB PACKWOOD is, do you know who MARK HATFIELD is, the two Senators in the State of Oregon? When posed that way, perhaps 90 percent of the people would say "Yes, I have heard of MARK HATFIELD or I have heard of BOB PACKWOOD."

Or, you can pose it: "Do you know who DANIEL INOUYE is?" And they would say, "Yes, we know who DANIEL INOUYE is."

I earlier postulated that my hunch would be that if you were to ask that question in West Virginia about the majority leader, Senator BYRD, I would imagine the answer would be close to 99 percent or almost close to 100 percent of the people in West Virginia that would have heard of Senator BYRD.

So if you are an incumbent, you have very, very high name familiarity and the longer you are in office the higher up it goes. Whereas, on the other hand, if you are a challenger, and unless perhaps you happen to be a Governor—a Governor can perhaps match a U.S. Senator in terms of name familiarity. But, short of that, the attorney general in the State could not, the secretary of state, the State treasurer, by the time you drop down to the members of the State legislature or the mayor or county commissioner, that candidate starting to run would be lucky to start out statewide 10 percent in name familiarity.

So, absent anything else, what is the situation if you have an incumbent—and I am assuming that the incumbent has not shot himself in the foot, has not done some terrible transgression that has simply turned the public against that incumbent. That happens every now and then in politics. We have all seen recent examples of it. There is no point in dwelling on them here. But most incumbents do not do that.

There is an old adage:

> Get along, go along. Don't offend anybody. Keep your head down. Don't undertake controversial stands. Don't irritate your seniors. Keep your mouth shut and, by the seniority system, you will advance.

So long as most incumbents follow that and their name familiarity goes up, they are reasonably safe. Now they are running against a challenger who has served two or three or four terms in the State legislature; a couple of terms as mayor of a medium sized city. That poor devil starts off with 10 percent name familiarity.

All other things being equal, the incumbent beats the challenger hands down. Doubly so, if you say that the challenger can spend no more money than the incumbent. The incumbent already has a tremendous advantage. Now, in addition to that, you give the incumbent the advantage of spending as much money as the challenger; the challenger starts from below and can never catch up under normal circumstances.

The second advantage of an incumbent: public financing of our campaigns when we are not campaigning.

One, the frank. We are allocated, by our own vote, a rather large sum of money to mail out at public expense, taxpayer expense, newsletters to our constituents; almost all of the Members of the Senate do it. It would be an unusual newsletter that you would mail out to constituents, telling them you did not like them or did not like their position.

What you are more likely to do is to get mailing lists, mailing lists of the elderly, mailing lists of gun owners, mailing lists of environmentalists, mailing lists of fishermen or fisherwomen, mailing lists of people in the timber industry.

Then you mail to them over the 5½ years you are here before you are running for reelection newsletters on issues of concern to them, usually phrasing your position in accordance with theirs so that they will be happy with you. It is very seldom that you would send a letter to gun owners saying I have decided to come out for gun registration. Very seldom would you mail a letter to environmentalists saying: I have decided to come out for unlimited oil exploration in the Arctic Wildlife Refuge. It is just the other way around. If by chance you do not agree with them, you do not mail to that group on that issue. So we have the advantage of the frank.

Third is the access that we get. I am not here being critical of the media in any sense but the access we have to media in our home State a challenger simply does not have. An incumbent is news or usually is news. So when an incumbent goes home for one of our work periods—and we are now operating thanks to the majority leader and I am appreciative of it, we are here 3 weeks and go home 1 week, here 3 weeks and go home 1 week.

You go home and it is not difficult to get a meeting with the editorial boards of your newspapers, not difficult to appear live or taped on the evening news show, not difficult to appear on radio shows. They are happy to have the incumbent.

If, by chance, the challenger, a year, year and a half out, decides to challenge the incumbent, frankly the challenger just has more difficulty getting on the evening news, getting on radio shows, getting a meeting with the editorial board. He might get a meeting with one of the people on the editorial board but not likely the whole editorial board. It is just the way the system works.

Do not forget, I do not mean to be critical. You have been a Senator for one term, two terms, three terms; you have probably arrived at a position of some consequence and you are somebody that can make some difference in

the Senate, you are newsworthy, and the news media covers news.

Or you want to investigate Federal activities in your State. You are in Hawaii. You might want to look at some of the Coast Guard bases. If you are in Iowa, you might look at some of the agricultural experiment stations. If you are in Oregon, you might want to examine some of the different U.S. national forests in one form or another. You will usually discover that the Government agency involved will be happy to provide you with transportation to and from the thing you want to look at. Understandably the agency is happy to have you look at it. They want you to see their work. Indeed, it is wise for us to see their work.

It is one thing to stay here and listen to witnesses. It is another to go out, go home and actually go out on the ground, see the ground and feel the ground and see what is going on. So they are happy to provide a car, happy to provide a helicopter, transport you out and back to their place and you manage to work out your schedule so that you get back, just coincidentally, at the airport, as the television cameras from the local stations at that city happen to be at the airport. Purely coincidental, of course, that they would be there when you are getting off of the helicopter but there they are taking your picture and you are commenting upon the excellent work that the agriculture experiment station is doing or the Coast Guard is doing.

Everyone, frankly, is happy. The news media is happy. Government agencies are happy. Certainly the incumbent is happy.

But now let us assume that you are the challenger. He or she is not likely to get a helicopter provided. He or she, maybe, if they want to go see the agricultural experiment station, Coast Guard station that is 300 miles away, they can go and take their own helicopter, rent a helicopter. Interestingly renting a helicopter in a campaign requries a fair amount of campaign money, money that the incumbent doesn't have to spend. The Government will provide the helicopter.

The challenger will have to rent it at his or her own expense to do exactly the same thing that the incumbent does for nothing. Then the challenger will be lucky if given exactly the same circumstances the television cameras from the local broadcast media happen to be there when the candidate paid for helicopters arrive at the airport. It is just coincidental. They happen to be there when the incumbent is there, but not the challenger.

(Mr. SANFORD assumed the Chair.)

Mr. PACKWOOD. So, in every possible situation, the incumbent has tremendous advantages. That is why most incumbents win.

Let us take a look at the last elections and they are most interesting, the 1986 Senate election. Every single incumbent who spent within the spending limits set by S. 2 won; 10 out of 10 incumbents who spent within the limits of S. 2 won. Conversely, 90 percent of the challengers who spent within the limits set by S. 2 lost. Eighteen out of 20 challengers who spent within the limits lost.

Seventy-two percent of the challengers who spent above the limit, five out of seven challengers won. Therefore, a challenger who spent above the limit had a 63-percent chance of winning, five out of eight challengers altogether. A challenger who spent within the limit had a 10-percent chance of winning, 2 out of 20.

So, is it any wonder that incumbents like a system that precludes a challenger from spending any more on the campaign than the incumbent? It makes absolutely rational sense to the person who is the incumbent.

What did Dr. Michael Malbin, of the American Enterprise Institute, say in his book "Money and Politics in the United States"?

Spending limits work the other way. In the aggregate, with some exceptions that grow out of the peculiarities of individual races, spending limits would favor incumbents and would be felt most heavily in the most competitive districts.

What does Dr. John Bibby, of the University of Wisconsin—Milwaukee, say in a statement before the House Subcommittee on Elections on June 16, 1987?

A major advantage of incumbency is control of official resources for reaching and serving constituents. The estimated value of official resources available to Members of the House is approximately $1 million over a two year period. . . . Professor Gary Jacobson, a leading expert on congressional elections, estimated in 1978 that the average House challenger would have to spend "in the order of $320,000 to become as familiar [to constituents] as the average incumbent.

Expenditure limits work to the disadvantage of nonincumbents and discourage electoral competition. . . . Keeping in mind that it is challengers, not incumbents, who benefit most from campaign spending, such proposals have a definite anti-challenger and anti-electoral competiton bias.

Candidates are often unequal in many ways (e.g., name identification, partisanship of the constituency). Public financing/expenditure limit regulations, by requiring equality of finance, would merely emphasize these other inequalities and prevent less well known candidates from gaining access to the key resource that might enable them to catchup.

Fostering Citizen Participation Political science research has shown that voter turnout is encouraged by competitive elections. Therefore, if voter turnout in congressional elections is to be encouraged, it is essential that no unduly severe limits be imposed upon candidate spending—particularly nonincumbent spending. Such limits disadvantage nonincumbents and thereby hold down competition. Voter turnout in the United States is already below that of other western democracies and nothing should be done in the name of electoral reform to worsen that situation.

The next point in this treatise, How Much Is Too Much Money?

It is a common misperception that elections in the United States are more expensive than in most other countries. Dr. Howard Penniman has conducted some studies in this area reaching exactly the opposite conclusion.

Now quoting from Dr. Penniman's study, Mass Media Campaigns, published in 1984:

Calculating campaign costs on the basis of expenditures for eligible voters makes it possible to compare costs for units that are identical in all democracies. Comparing the absolute costs of campaigns in different countries only points up the obvious fact that it is more expensive to send messages to many people than to a few.

The cost per eligible voter in the United States is considerably less than in Venezuela, the Federal Republic of Germany, Israel, and Ireland for comparable elections. The cost in Canada is higher than in America, if the value of free television and radio are included. Because of the absence of data, it is not easy to know how United Kingdom costs compare to ours.

In preparing this essay it was striking to find that in most of the twenty countries with 1.5 million voters and twenty-five years of continuous democratic practice, there is neither adequate financing data nor recognized experts with the knowledge and experience to make informed and generally accepted judgments of costs. Nearly half of the countries require no reports from parties or candidates. Half of the remainder have laws requiring limited information, or enforce their laws so casually that the reports are incomplete, implausible, or both.

Under these circumstances, any inclusive assertions that electoral campaigns are conducted at a much lower cost in all other democracies are made without sufficient data or by using criteria that are clearly inadequate. If the six countries whose expenditures were examined here are indicative, it is probable that the per eligible voter costs are less in the United States than in most other democracies.

And now quoting from Herber E. Alexander and Brian E. Haggerty, Financing the United States Elections, page 81:

Compared with some other categories of spending, however, spending for political campaigns is low. The amount spent in 1983-1984 is substantially less than the $2.4 billion that the nation's three leading commercial advertisers—Procter and Gamble, General Motors, and Sears—spent in 1984 to proclaim the quality of their products. It represents a mere fraction of 1 percent of the $1.4 trillion spent in 1984 by federal, state, and local governments. And, as one journalist noted, it is "just a fraction of what we spend on cosmetics, pet food and illegal drugs."

The next point, Mr. President, is unenforceability, by Herbert E. Alexander in Financing the 1984 Election, page 411:

. . . As long ago as 1926, political scientist James Pollock wrote that imposing limits on the size of campaign contributions was futile "because the regulation, being unrea-

sonable, will be circumvented, just as similar requirements have almost always been circumvented."

In a political system such as that of the United States, animated by a variety of competing interests each guaranteed freedom of expression, a tightly drawn system of campaign contribution and spending limits will inevitably encounter great difficulties.

Quoting from the executive summary, page 1, Financing Presidential Campaigns, from the Institute of Politics, John F. Kennedy School of Government, Harvard University:

Among these problems, we feel the most troublesome are related to the attempt to restrict the spending of money spent by those seeking to influence the outcomes of presidential campaigns. . . . The limitations upon expenditures have become increasingly restrictive and have spawned a whole series of serious problems of definition, allocation and enforcement. On the other hand, the effort to control total spending in presidential races has not succeeded.

Quoting from Financing Presidential Campaigns: Recommendations of Campaign Finance Study Group, edited by Christopher Arterton, chairman.

The FECA has not succeeded in limiting the growth of money spent in presidential contests. While the Act has, in fact, limited spending by those actually contesting the election, it has not been able to halt growth in the total amount of money finding its way into presidential elections.

The Act restricts both campaign organizations and political parties, in a way that unduly dictates their political strategies. What should remain political decisions have, in effect, become accounting decisions.

. . . the Act has not succeeded in arresting the upward spiral in campaign spending.

. . . increases have come about, therefore, through conduits which are not under the control of the candidates, although in some instances this spending may be "coordinated" with the campaign organization. . . . Spending by labor unions and corporations for "internal communications" is also outside the candidate's direct control. Moreover, we cannot be sure if these expenditures are increasing, since by and large they do not have to be reported to the FEC.

On this unenforceability aspect, what the various academicians are talking about is the fact that if we say we can only spend x amount of dollars in a Presidential campaign, $20 million or $30 million, and somebody wants to spend money on a Presidential campaign, prior to the limits they would give it to the campaign committee. Once we put limits on the Presidential campaign committees, the person instead of giving it to the Presidential campaign committee gives it to an independent committee and the independent committee goes out and spends it.

Now, if it is an independent political committee, at least that committee has to report the spending that it is doing, and most independent committees, in fairness to them, do, if they are independent political committees. The extraordinary abuse that is growing and growing is de facto political spending by what we call section 501 (c)(3) or (c)(4) or (c)(5) organizations. These are charitable, educational, eleemosynary institutions. They are tax exempt. If you make a contribution to them, you can take it as a tax deduction. They do not have to pay any taxes on any money they earn or money they get. These organizations, and labor unions are one, spend money in de facto politics, by de facto I mean actually on politics, in calling up the members.

Let us say the union has endorsed Walter Mondale. This is the 1984 election. They then called up their members and see which of their members are supporting Walter Mondale. Let us say 70 percent of the union are supporting Mondale, and 30 percent are supporting President Reagan.

The union is then perfectly free to use its money to recontract the 70 percent who are supporting Walter Mondale and get them out to vote on election day and never call the 30 percent. And they can do all of that and it is not counted as political spending. It does not even have to be reported.

That is why we have these academic estimates of the extraordinary quantity of money that was spent by organized labor in the past few elections that is never reported.

I must say, on some occasions, to be bipartisan, the Teamsters Union spent an extraordinary amount of money. They had endorsed President Reagan in 1984. But try to get the exact amount of the money that these 501(c) (3)'s, (4)'s, and (5)'s spent and it is difficult because in most cases they do not report it.

I talked about unions. Those are traditional organizations, and corporations are traditional organizations. Corporations would not have to report it if they contacted their employees and found out who they were for and got them out. What we are seeing is a growth of new eleemosynary, charitable organizations, new ones that are formed that get a tax-exempt 501(c)(3), 501(c)(4), or 501(c)(5) status, who are formed for no other purpose, Mr. President, than for getting out the vote for a particular party or candidate.

And these are growing, frankly, because of limits that we have put on spending in the Presidential race. If you cannot give your money to your favorite Presidential candidate in the general election, give it to your favorite 501 (c)(3), (c)(4), or (c)(5) organization that will get out the vote for your favorite candidate.

So the limits have not worked. The limits have simply pushed the money outside the process into organizations that are not responsible to voters, into organizations that in most cases do not have to report to the Federal Election Commission, are totally unresponsible to any rational political accountability. At least when a candidate runs, the candidate has to file with the Federal Election Commission and know from whom he or she receives his or her money. If they received 80 percent out of State running for the U.S. Senate, fine, tap that candidate for taking 80 percent out of State money. If they received 50 percent, tap them for receiving 50 percent from the political action committees. It is reported. You know it. And then in addition to that, when you are running for the Senate, whether you are running in Idaho or Oregon or New York, you have got to appear before a wide spectrum of voters who are liberal and conservative, who support gun registration and do not support gun registration, who want more wilderness and who do not, and they are going to pin you down with questions and you are accountable to all of them. And they may elect you or they may not. And part of the reason they may or may not vote for you is because of from whom you got your money, and they know from whom you got it. But these so-called soft money organizations are not accountable to anybody. They do not have to report to the public. You do not know where they got their money.

And by and large they are made up of those who have a single-purpose agenda. These organizations are not accountable to prowilderness and antiwilderness people or progun and antigun people. These are very narrow special interest, parochial groups, the sole interest of which is electing or defeating a candidate who may or may not further their issues. And you as the voter do not know what they spend or how they spent it. And we are encouraging these kinds of organizations more and more and more.

Now, Mr. President, I have indicated earlier why I understand the majority party supports this bill. As I indicated by the academic studies I read earlier, it clearly favors the incumbent. I suppose from a pure standpoint of personal selfish interest, I probably ought to support the bill, too. I have been in the Senate 20 years. I do not have to run again until 1992. My name familiarity is high. I think I could succeed in reelection against a challenger who was equally well financed who had to start from a very, very difficult underdog position.

But I would ask the Senator to remember this in considering this bill, and I would ask the public to remember it so that they would understand why the Republicans oppose this bill so terribly. First, incumbents have an advantage over challengers and most of the incumbents in the Senate are Democrats, 54 Democrats, 46 Republicans. So all things being equal, if averages work out, and incumbents have an advantage, the Democrats will keep

control of the Senate, especially if you can make sure that a challenger, a Republican challenger, cannot spend somewhat more money than the incumbent to make up for the disadvantages that the unknown challenger has.

Second, party registration. On average, and I am speaking about averages—there are exceptions—people will vote the party in which they register. It is more likely that Democrats vote for Democrats than Republicans. It is more likely that Republicans vote for Republicans than Democrats. That is not new. We have known that for years. Every poll I ever see, every exit poll, every poll ahead of the election indicates that most of the people, most of the time, vote for the candidate of the party in which they are registered. It is also no secret that since about 1940 the Democrats have been the majority party in this country. The Republicans were from roughly the Civil War to the Depression. Democrats have been from roughly the Depression to now.

So if on average the minority party—that is the Republican challenger—can spend no more money than the majority party incumbent Democrat, that is another advantage for the incumbent Democratic Senator. So it is no wonder that you do not want to have a bill or law that would allow your challenger to spend more than you would spend.

Now let us come to some of the complaints, some of the allegations of the majority as to the evils of the present system and how their bill would cure them and how only their bill would cure them.

The first argument is the political action committees. They are evil is the argument, they are evil, they are special interest, they give big money if they want to buy your ear, if they can they want to buy your vote and we see perpetual stories of the growing influence of the PAC's and a higher percentage of candidates depending on them, and more and more the money comes pouring in and that is bad for the process. If that is the complaint, that is easy to remedy. Just change the law that now allows political action committees to give $5,000 to a candidate in the primary and another $5,000 in the general, $10,000. Change that law to zero. The political action committee cannot give any money.

Now, the political action committee may go off and spend it on its own. It may give to one of these 501(c)(3) organizations. It may do something else with it. But if the alleged evil is the political action committee giving to the candidate, just change the law so the political action committee cannot give to the candidate. We can solve that without the bill sponsored by the majority which requires public financing of elections. We can do that without tapping the purse of the taxpayer in this country.

The second issue in addition to the one I have just mentioned—well, let me go back because I missed the point on incumbents that I should have mentioned while I was talking about incumbents. An argument will be made that the PAC's will give more money to the incumbents than they will give to challengers. This is true only to a degree, although it applies to Republican incumbents as well as Democratic incumbents. This is true only to a degree that the political action committee is convinced that the incumbent will win. As most incumbents win, most political action committee funding goes to incumbents. The argument is that happens, of course, so they can keep the ear of the incumbent. They can get rid of that by going to zero.

The second argument that is often raised in addition to the evils of the political action committees is that we are spending too much money on campaigns generally. Now, forget for the moment the source of where they say it came from. They spend too much. The campaign in 1976—and I am paraphrasing. This is what the proponents say and I might be wrong—was $600,000, by 1986 it had grown to $3 million, and if it kept growing at that rate, in another 10 years it will be $9 million and then what is the limit, $90 million, $900 million, $9 billion? Is there no limit to what people will want to spend?

If that is the complaint, then that is easily cured without asking the public to finance our campaigns. First let us say we have changed the law so that the political action committees cannot give, so we have removed altogether that source of money. Second, we take the limits on individuals. At the moment, it is $1,000. An individual can give you $1,000 in the primary, $1,000 in the general election, $2,000 for the campaign.

Change that limit to $100 instead of $1,000, $50 instead of $1,000, it is not wedded to 50 or 100. But we cut it way down.

That will have one or two effects. That may dramatically lower the amount of money that you raise for a campaign there by achieving the goal that the reformers say they want of lowering the cost of campaigns. It may have that effect. The other effect it might have, and frankly I think it would be a better effect than lowering the cost of campaigns, instead of raising your campaign fund to 5,000 people you would now have to raise it from 50,000 or 100,000 people in small amounts.

I think that is good for democracy. If we could get 20 or 30 or 40 people in this country to give $20, or $30, or $40 apiece to campaigns, once they gave that $20, $30, or $40, they would have an interest in the campaign. They are not going to give $20, $30, or $40 because they want to buy your ear or vote. They give it because they believe in you. If they believe in you and they will give you that much, they will work for you.

If participation in democracy is what campaign laws ought to be all about, then that is what we ought to be doing.

Do you know the reason I think the Democrats have some misgivings about that? Ironically—this is contrary to formal public image of the parties—the Republicans have been more successful than the Democrats in raising money from small contributors. Both parties have tried it. Candidates from both parties have tried it. The normal method of doing it is by direct mail, and almost everybody in this Senate has tried it at one time or another. I would wager half of this country received these direct mail solicitations of one kind or another.

For whatever reasons—I have some theories but I do not need to discuss those theories here—the Republican Party has succeeded at it, and the Democratic Party has not. That accounts for the stories that you have seen in the papers over the last year or so—I think it even surprises on occasion the reporters that do the research—that indicate that it is the Democratic Party, not the Republicans that are financed principally by PAC's and major donors, the fat cats as they are often called in the trade.

The Democrats are much more dependent on those big contributions. Interestingly, those big contributions are relatively cheap to raise. You have a $1,000 cocktail party at the Washington Hilton Hotel from 6 o'clock to 8 o'clock at night. You send out letters all over the city, all over the country, "Please come to my cocktail party," $1,000 a head; it costs you maybe $30 a head to put on the cocktail party.

So a person gives $1,000 to come to the cocktail party, costs you $30 to entertain them, you make $970, relatively inexpensive fundraising, very low cost to the amount raised. This is the way Democrats principally raise their money—large contributions from relatively fewer donors.

The Republicans on the other hand raise a much greater proportion of their money from these $20 and $30 contributions that you raise by direct mail.

The problem is that is expensive fundraising. A normal rule of thumb is if you can get a 2-percent return on what we call prospects, and these figures are taken, and it has been 3 or 4 years now since I was chairman of the Republican Senatorial Committee but I do not think from what I have read that they have changed much—if you can get a 2-percent return on pros-

pects at $20 a return, that is good prospecting. By prospecting we mean rent a cold list. You rent from Fortune magazine, National Rifle Association; you rent some commercial list that is available that normally costs you $50,000 or $60,000 to rent it. You have all kinds of associated costs in the direct mail, the postage, printing, return envelope and all of that.

Let us say you send out a million letters, costs you about 40 cents apiece, $400,000, you get 2-percent return, 20,000 come back in, you raise $20 apiece, it raises $400,000. It breaks even. The reason it is worth doing is because those 20,000 people who have given you money experience indicates will give to you again from subsequent names and it is relatively inexpensive to mail that 20,000 once they have given. The expense is mailing to the first million.

Any bill that puts a limit on campaign spending, and I therefore would presume campaign fundraising because there would be no point in raising more money than you need—any bill that puts an artificially low limit on campaign spending automatically favors the most cost-efficient method of raising money. And that is raising money from large donors, large contributions, that are relatively inexpensive to raise, the $1,000 cocktail party with the $30 expense, favors that rather than raising thousands and thousands of dollars from thousands and thousands of donors at $10, $20, $30 a crack by direct mail.

Is it not interesting that a bill sponsored by the leadership of the majority party that what they would be attempting to achieve—maybe they do not intend it, but I think they do—is to push campaigns toward raising money by the method that has proven most successful to the Democratic party; that is, raising it from large contributors and large donations instead of pushing it toward the method that has proved so successful for the Republican Party, small donations from numerous contributors.

This bill is understandable. It favors incumbents. There are more Democratic incumbents than Republican incumbents. It favors the majority party. Democrats are in the majority party. And it favors raising money from large donors rather than small donors, which benefits the Democratic Party rather than the Republican Party.

I think if I were in the majority party, Mr. President, not from the standpoint of the good of the country, but from the standpoint of the good of myself, I would support this bill. From the standpoint of the good of the country, from the standpoint of the good of the taxpayer, this bill is not needed. I think the Republicans are prepared to fight it out here all week, all month, all spring, all year.

Mr. President, I yield the floor.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. PACKWOOD. Mr. President, I object.

Mr. SYMMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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

[Quorum No. 5 Leg.]

Byrd	Levin	Roth
Cohen	Mitchell	Sanford
Helms	Packwood	Simpson
Leahy	Proxmire	Symms

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absent Senators.

Mr. BYRD. Mr. President, I move to instruct the Sergeant at Arms 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. On this question 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 New Mexico [Mr. BINGAMAN], the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Georgia [Mr. NUNN], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

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

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], and the Senator from Virginia [Mr. TRIBLE], are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM], is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND], is absent due to illiness.

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

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will tally the roll.

Mr. WEICKER. The clerk, I know well. Believe me, he can tally very fast. If we are going to follow the rule around here, let us follow it for all.

Regular order.

Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

Are there other Senators who care to vote?

Mr. WEICKER. Regular order. Regular order.

Mr. President, regular order.

The PRESIDING OFFICER. The clerk will tally the roll.

The result was announced—yeas 57, nays 17, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—57

Adams	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Graham	Mitchell
Boren	Grassley	Moynihan
Bradley	Harkin	Pell
Breaux	Hatfield	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Byrd	Humphrey	Rockefeller
Conrad	Inouye	Roth
Cranston	Johnston	Sanford
Danforth	Kassebaum	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Lautenberg	Shelby
Dixon	Leahy	Simpson
Dodd	Levin	Stevens
Domenici	Matsunaga	Thurmond
Exon	McClure	Warner
Ford	Melcher	Wirth

NAYS—17

Armstrong	Kasten	Specter
Cohen	McCain	Symms
Durenberger	Murkowski	Wallop
Garn	Nickles	Weicker
Helms	Packwood	Wilson
Karnes	Quayle	

NOT VOTING—26

Biden	Evans	Nunn
Bingaman	Gore	Pressler
Bond	Gramm	Riegle
Boschwitz	Hatch	Rudman
Chafee	Hecht	Simon
Chiles	Hollings	Stafford
Cochran	Kennedy	Stennis
D'Amato	Lugar	Trible
Dole	McConnell	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question is on the second-degree amendment.

Mr. SIMPSON. Mr. President, I wish to be recognized.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, obviously we are at an impasse which could go on. It is not our intent to disrupt Members on both sides. I am going to have a meeting with the members of the S. 2 coalition right after these remarks and also with the leadership of the Senate. We will be able to tell perhaps what we will do tonight with some better clarity.

But we have some spirited people that feel if they are going to be here everyone should be here. That is a theme here with some; others thinking that we will meet our hour quota and rest and save ourselves for these next days.

So I will be able to report back on that in a few minutes. Senator MCCAIN will then proceed with the debate on our position.

But at this point I would ask for the yeas and nays on amendment No. 1405.

Mr. BYRD. Mr. President, is that the pending amendment?

The PRESIDING OFFICER. That is the pending amendment.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, let me also propose this—and I have not talked with the majority leader, but obviously I can discuss it—I ask unanimous consent that it be in order to order the yeas and nays on each amendment and the motion to recommit S. 2 and have that done at this time with a proper showing of seconds.

Mr. BYRD. I would object to that.

Mr. SIMPSON. Then we will make that at a timely point on each occasion.

Mr. BYRD. That can be done

Mr. SIMPSON. Yes.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Wyoming yield the floor?

Mr. SIMPSON. Mr. President, I yield the floor, if I have the floor, to Senator MCCAIN.

Mr. BYRD. Mr. President, the Senator cannot farm out the floor. If he wishes to yield the floor and if Senator MCCAIN wishes to seek recognition, he may do so.

Mr. SIMPSON. That is perfectly appropriate. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise to address the issue again of S. 2, which we have been addressing for what appears to be ad infinitum; certainly, without a doubt, in the minds of many Members ad nauseam.

Mr. President, I happen to be singularly blessed in that I have been one of those selected Senators, one of those in the enviable position who has been selected by the organization named Common Cause—some of us call them "Uncommon Cause" due to some of the various causes and issues they have been associated with—but I have been singled out, Mr. President, for full-page ads to be taken out in every newspaper in my State castigating me for failing to allow this piece of legislation to go through—filibustering, defying the will of the people. And even to add credence to these unusual charges, Mr. President, it is signed by that common household name, Archibald Cox, a man who I know is very familiar to most Arizonans and most Americans.

What business Archibald Cox has in telling the people of the State of Arizona how they should judge my conduct is not something I understand at this time, but at the same time we are always pleased when Common Cause will spend a great deal of money in my State supporting the print media and thereby helping with the employment and the livelihood of so many members of the press. And so I must extend my appreciation to Common Cause for their taking out these full-page ads, pumping this considerable sum of money into the State of Arizona, and I urge them to continue perhaps on a weekly basis if not monthly.

It provides for interesting reading. It also arouses one's curiosity and sometimes stimulates my humor when I see the way that these ads are shaped, particularly since in every single one of these ads there has yet to be a single mention of public financing.

Mr. President, that seems to have escaped either the notice of Archibald Cox or perhaps it does not concern him, since it is my understanding that Mr. Cox is an independently wealthy man and what happens to his tax dollar may perhaps not concern him as much as it does many low- or middle-income Americans today who are shouldering such an immense tax burden.

But Mr. Cox's missive to Arizonans is one which spends most of its content in attacking me for my failure, in fact almost singlehandedly—I do oftentimes appreciate the credit that Mr. Cox gives me for having an enormous amount of influence and clout in this body, because in reading this advertisement one would think JOHN MCCAIN singlehandedly was holding up the passage of this legislation and indeed defying the will of the American people. I certainly am flattered by not only the attention but the great credence that he gives the influence I have in this body.

But I think it is very important that we really get some understanding of this issue rather than spending time taking out full-page ads in certain Senators' States. In fact, although I hope that these full-page ads do continue because it is very good for the economy in my State, I would like to assure Mr. Cox and his friends that they have stimulated my interest in this issue, they have stimulated my opposition, and they have caused me to take a rather firm stand on this issue since the more research that I do into this ill-founded piece of legislation, the more convinced I am of how disastrous this would be, not only to the Republican Party, but to the political process as we know it.

Now, our distinguished acting minority leader, my friend from Wyoming, Mr. SIMPSON, stated it very well. What this legislation is all about in its present form is who is going to be in the majority for the next 40 years. Face it, my friends, we are not talking about the nuances of campaign reform. We are talking about whether the Democratic Party will maintain the majority in this body for the next 30 or 40 years. That is why we are seeing the commitment of most of the Members on this side of the aisle to extended debate.

I think that it is very important also that we look at what is happening today in the area of Presidential campaigns.

Now, I know that many Presidential candidates that have entered the race have a great deal of credibility, particularly in their own minds and that of their wives and perhaps of their immediate family. But I think that most objective observers of the political scene would suggest that a number of candidates for President of the United States have very little, if any, chance of succeeding to the Presidency. In fact, as unpredictable as Presidential campaigns are, it would be impossible to believe that some unmentioned great Americans could have the slightest opportunity of actually achieving their party's nomination for the Presidency. That is true with both parties.

Mr. President, besides considerable egos which are certainly not confined to Presidential candidates, what motivates people to run, to seek the nomination for the Presidency of their country?

I would suggest that one factor, and this has been well documented in the media, is the knowledge that if they are able to get a certain amount of money, that that money will be matched by taxpayers' dollars.

I hope someplace in the course of this debate we will be able to discover exactly how much of the taxpayers' dollars has been expended on Presidential losing campaigns since we revised the campaign laws in 1971. I would suggest to you that it runs into the hundreds of millions of taxpayers' dollars. I would suggest that I have not met a single person in my State who says that they would like to see

their tax dollars spent for Presidential campaigns for candidates that they may not even know nor to support views with which they disagree.

When I ask my constituents, those who have read those stirring full-page advertisements in the media, if they support expenditures of their tax dollars in this era of enormous deficits, if they support spending their tax dollars on funding someone's political campaign, I have yet to meet a single person who has told me: "Please, Senator, please, take some more of my taxes, would you, and spend it on some politician's campaign who is seeking a public office." I have not met a single one.

Perhaps I have not traveled in the right circles. Perhaps I have not met and confided with the members of Common Cause in the quiche-eating establishments in which they congregate.

Perhaps I have not had the opportunity to travel at those high intellectual levels of people like members of Common Cause who think that the needless expenditure of taxpayers' dollars on political campaigns is not only fitting but extremely appropriate.

Let me also point out that I have questioned my esteemed friends—and indeed I do have very good friends whom I respect enormously who are supportive of this legislation—why do we have to have taxpayers' dollars expended in order for us to get a true campaign reform? And of course the response is: Well, it all goes back to a Supreme Court decision that mandates that we cannot have spending limitations unless there is a provision for taxpayers' dollars being expended on these elections.

I do not think that that is appropriate enough a reason, I say to my colleagues. I not only do not think it is appropriate enough a reason, I think perhaps we might be putting the cart before the horse and what we ought to do is try to change the constitutionality aspects of campaign finance reform and then move forward and pass legislation which would bring about the kind of reform that we need.

Let me also point out something. In the full-page ads taken out by Archibald Cox and his friends, there is a great deal to say in that about political action committees. According to Common Cause, and I believe that I am stating their views accurately since I have been bombarded with them from so many directions, political action committees are a corrupting influence on the process and that political action committees are, somehow, a way for "special interests" and groups of some evil and diabolical intent to have an inordinate impact on the political process.

Well, I would suggest to the proponents of S. 2: let us do away with political action committees. I am prepared to propose an amendment, if it would be accepted by the opponents of S. 2, that we would do away with all political action committees of every kind.

Why is it that my friends who support S. 2 and are so concerned about the influence of political action committees will not agree to such an amendment? Let us take it right out of the legislation. We do not even have to have an amendment on the floor to this bill. Why is it?

Well, frankly, I can only draw one conclusion and that conclusion might be that certain organizations such as labor political action committees would not sit still for this. And, also, we have not addressed the whole issue of soft money.

We are all very aware of the 1984 Presidential campaign when organized labor spent some $10 million on the candidacy of the Democratic candidate for President of the United States. None of that, of course, was in any way counted against the campaign spending limitations nor even reported.

But I think that if we are concerned, as I think we all are, about the influence of political action committees, and if it is, indeed, an inordinate influence on the political process, can we not just do away with them?

I wonder what is so objectionable about that and I would look forward to hearing the justification for keeping the PAC's, since that seems to be the focus of a great deal of discontent that my colleagues and the American people have expressed who are in support of this legislation.

Let me just talk for a minute about spending limits. Spending limits, according to S. 2, in my view are too low.

(Ms. MIKULSKI assumed the chair.)

Mr. McCAIN. As leading academicians have written of the Presidential spending limits and public financing scheme: The limits "restrict * * * campaign organizations * * * in a way that unduly dictates their political strategies. What should remain political decisions have, in effect, become accounting decisions." I quote from Financing Presidential Campaigns: Recommendations of the Campaign Finance Study Group.

The limits are not high enough to enable a challenger to mount an effective campaign against an incumbent or to enable an incumbent to get his campaign message across fully.

The limits are based on the taxpayer financing allotments of S. 2. But there would have been no fundraising costs under the public financing plans, while there will be under the current S. 2.

Under the revised S. 2, candidates will have to spend money to raise money up to the state's limit. These fundraising costs are money off the top that cannot be used to make the candidate's views known.

The average Senate campaign spends between 25% and 33% on fundraising.

The spending limits of S. 2 do not make sense because the costs of campaigning vary from state to state based on factors other than the voting age population. Of greater importance, for example, is the cost and location of media markets.

I happen to come from a State that has two major media markets. The State of Texas has approximately 22 major media markets. How can we adequately compare the State of Texas with the State of Arizona, simply as it regards to voting age populations? Because media markets are often dictated by geography as opposed to the number of voters.

Spending limits are unenforceable and I intend to get into that a little later on.

One of the greatest disgraces, I think, is that so many campaigns have been called short by the FEC because of their failure to adhere to present laws as they are.

The costing of S. 2. Let us talk about the costs of this legislation. We are talking about a period of dramatic attempts to reduce our deficit.

We are talking about an era where we are having to reduce our defense budget rather significantly and yet we are now considering a bill that I think has significant costs associated with it. Our distinguished majority leader, Senator BYRD, said during the floor debate, "even the slight potential cost of this legislation is more than fully offset within it. The amendment ends preferential mailing rates for political parties."

I beg to disagree because of the S. 2 postal subsidy administrative cost for FEC to administer S. 2, cost of public financing for candidates whose opponents exceed the spending limit; the cost of subsidizing candidates hit by independent expenditures, and, finally, the compliance costs allowed by S. 2.

The postal subsidy. The current postal subsidy for political parties that S. 2 would eliminate is about $10.6 million annually. The postal cost for candidates under S. 2 is approximately $130 million per election cycle. That is a factor of 10 increase. Administrative costs: FEC costs to administer S. 2 would increase dramatically due to the expanded workload of implementing and interpreting the new law. While precise costs are impossible to pin down, the FEC has estimated based on current figures that the annual additional cost of administering S. 2 would approach $1.65 million.

That is just for the FEC to administer this new law.

$1 million is not a lot of money in a $1 trillion budget. I would be one of the first to admit that. But the fact is, do we need to spend an additional $1

million? I think the answer is clearly no.

Inquiries from the candidates and the public would increase. In fiscal 1986 the FEC responded to over 110,000 inquiries. Fifteen thousand of these inquiries required substantive research to provide a response. The average response time for these 15,000 inquiries was 15 working days. This is from the FEC response to questions from the House Administration Committee for the fiscal year 1988 budget.

We enact a new law, a rather complex law. What is it going to do with those inquiries? I would suggest it is going to double and triple the increased numbers of advisers required to clarify the new law.

In fiscal 1986, FEC staff workers worked on four revised projects at an average cost of $1,642 with each taking an average of 87 staff hours.

If we pass this legislation, we may have one of the largest bureaucracies in Washington. We may have to move them to the Pentagon building. This is an incredible, I think, and terribly unnecessary burden on the taxpayers, not only from the direct aspect of campaign financing, but so many hidden costs such as I am describing now.

In fiscal year 1987, the two FEC divisions responsible for handling public inquiries cost $743,000. Both divisions would obviously have to be expanded to cover implementation of the new law. In addition, there would be increased audit costs to ensure that the taxpayers' money was being spent properly by the candidates. Increased personnel costs with an inflation of about 5 percent would also have to be added.

Public financing. This has been a subject of discussion on this floor on this bill, and I think it is important for us to understand exactly what cost this would be to the public.

The cost to the taxpayers of funding candidates whose opponents exceeded the spending limits would be approximately $20,502,000. The Congressional Budget Office has estimated that 20 percent of the candidates would not comply, meaning $10,251,000 in tax entitlement checks for major party candidates whose opponents exceed the limits and $10,251,000 to third-party candidates whose opponents exceed the limits assuming one third-party candidate per election.

Independent expenditures. Independent expenditures against the candidate who is abiding by the spending limits would trigger dollar for dollar payment for any independent expenditures of more than $10,000 against the limit. Based upon the total independent expenditures in 1986 for the Senate races this would cost the taxpayers $4,476,000 per election.

Compliance costs. S. 2 provides a compliance cost fund of 10 percent of the State's spending limits for candidates who require legal and accounting help to comply with the law. Based on 66 candidates needing this legal and accounting help, the cost would be $10,251,000. Suppose only half of those 66 Senate candidates would need this legal help. That would only be $5,150,000. My friends, the costs mount up. What it means is because of the abilities to receive taxpayer financing in some cases and indeed spending limitations we have had what we have seen in Presidential campaigns, a proliferation of candidates. I think that would be a natural consequence of this kind of legislation and that, of course, causes the expenses, the projected expenses, to rise exponentially.

Now let us talk about the evil political action committees, the thing that Archibald Cox uses to fire up the American people so they can be aware of the terrible and insidious aspects of political action committees.

First of all, as I said before, if political action committees are part of the problem. Let us get rid of them. Let us incorporate that in S. 2 as soon as possible in the negotiations that are going on as I speak, if, indeed, political action committees represent the evil distortion of the process as has been portrayed by Mr. Cox and his friends.

Let me also mention something about political action committees, if I could.

Political action committees are a way of political participation, in my view.

You know, a number of companies and corporations in the State which I represent which have political action committees seek contributions to those political action committees from their employees and family and friends.

I did a little study as far as the average contribution of several of the political action committees that contributed to my campaign. The average contribution to that political action committee was somewhere around $25. When an employee of Motorola, the largest private employer in my State, gives $25 to the political action committee which is, in turn, donated to my campaign or that of another candidate seeking public office in the State, is that really distorting the process? Is that really something that we need to be terribly concerned about?

Well, I would suggest that if there is a problem in America today, it is not because of political action committee participation; it is because of lack of political participation on the part of all of our citizens.

I would suggest that a law urging people to vote, urging people to be involved in campaigns, urging people to stand for public office, urging people to be involved in political action committees is another way that they can make their influence felt in the political process.

After having said all that, however, if the general perception is that somehow political action committees are a great and overriding evil in political campaigns today, then I would be one of the first to inquire further, and I have since the beginning of this exhausting and rather unpleasant debate. It has been something I suggested from the beginning.

But let us talk about what S. 2 does to political action committees since it is clear that S. 2 does not do away with political action committees.

S. 2 fails to reduce the amount a PAC can contribute to a campaign for the Senate. It simply limits the amount a candidate may receive in aggregate from all political action committees. This does not deal with the problem Democrats suggest political action committees pose, the actual or apparent undue influence over a particular special interest. What we are going to do is not do away with the evil but just kind of reduce it. OK, I understand that.

S. 2 in no way reduces the perceived problem that a Member of Congress may be unduly influenced for a $5,000 fee. S. 2 would allow an individual PAC to give the same amount as under current law and thereby have the same amount of influence.

It seems to me that in the event S. 2 were enacted into law in its present form, political action committees would be lined up to be first to donate in order that they would get under the ceiling which would be enforced under S. 2.

Republican proposals limit the size of the contribution from a special interest to a candidate and I believe is a more direct way to deal with the actual or apparent undue influence by the PAC. Democrats have rejected that approach because they realize their candidates are more dependent on large contributions from special interests than are Republican candidates.

There was a very interesting article in the Wall Street Journal which I think clearly defined the differential as it exists today from large contributions to Democratic candidates as opposed to Republicans.

In the 1986 elections, Democratic Senate and House candidates received 55 percent of all contributions made by PAC's to 45 percent for Republican candidates. In addition, PAC contributions accounted for an average of 37 percent of the money raised by Democratic Senate and House candidates to 28 percent for Republican candidates.

I must tell my colleagues in all candor I have questioned my Republican colleagues as to why they feel it is so necessary to defend the political action committee system when it is

clear that the majority of PAC money is now going to Democratic candidates as opposed to Republicans. But no one has ever accused the Republican Party of always taking the wisest and safest course.

Furthermore, S. 2 has to some degree an opposite effect from that desired. A political action committee, as I mentioned earlier, is a collection of individuals with common goals and concerns banded together to better participate in our electoral process.

More people now give through PAC's than through direct contributions. In the 1984 election cycle, almost 5 million people are estimated to have gotten involved through PAC's. We should encourage this involvement, which is fully reported and a matter of public record. Let me repeat that. This political involvement through political action committees is fully reported and a matter of public record. S. 2 would limit this public participation by only allowing some PAC's to contribute to candidates. This would work to the advantage of large powerful political action committees based in Washington. Grassroots PAC's without a Washington presence are the likely losers.

Let me say something else about PAC's if I could. I have the same problem that many of my colleagues do. Too much of their funds go to the incumbent, whether that incumbent be Republican or Democrat, and it does not give, in my view, the challenger an equal playing field quite often. I think it is abundantly clear from examining the records that that is the case.

But does that mean, because to some degree political action committee funds are misused, therefore, we do away with the entire concept? No. I would suggest that one of the answers is for people like ourselves to cultivate and encourage political action committees at the grassroots level in our respective States and communities rather than be solely dependent upon the political action committees which are Washington based. I also suggest that it is very discouraging to see a political action committee contribute to both candidates in a race. It is certainly their privilege to do so, and I do not see where S. 2 would prevent them from doing so. But at the same time I personally, and I think most of us, think it is not a fair expenditure of those contributors' funds when both candidates, major candidates receive their largess.

If candidates are limited in what they can accept, those PAC's which have the information to move quickly will be the ones which get to contribute. This may not be S. 2's intent, but it is its result. For example, if a Senator knew he could raise only a limited amount from PAC's, he would do things differently. He would not have to bother meeting with a number of PACs—and familiarizing himself with their issues and concerns. He could simply hold a single PAC event at which PAC's could contribute to his campaign on a first come, first served basis, up to the legal limit.

Now let us talk for a few minutes about the enforceability of S. 2.

Proponents of S. 2 assume the ability of the FEC to move speedily to certify breaches of the spending limits and independent expenditures and to provide the payment of taxpayers' dollars to the injured candidate. But the facts are that the FEC's performance record and "due process" considerations make the chances of such payments in a timely fashion nearly impossible.

The best current estimate from the FEC is that requests for taxpayer funds would take at least 40 days from date of receipt to process. This suggests there is no way to counter violations of S. 2 in the crucial last weeks of a campaign.

We all know that expenditures during the last weeks in a campaign are generally the crucial part of any political campaign.

I would suggest that S. 2 in its present form would be so cumbersome to the bureaucracy that it would be almost impossible for the FEC to redress violations in a timely fashion. I am sure it would be very comforting to the losing candidate to know that justice is done after election day, but unfortunately I doubt if it would serve to reverse the results of the will of the people.

Other workloads at the FEC under current law I think are worthy of note. Advisory opinions take a minimum of 60 days. Audit reviews on a threshold basis take about 2 weeks to complete but an additional week for certification. The Commisson must approve an audit before the staff can commence it.

Informational responses usually take no more than 1 day largely because they are not binding. Remember that we are in two entirely different ballgames when we are talking about an advisory opinion which is binding and an informational response which, of course, could be retracted or contradicated with extreme ease.

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The provisions of S. 2 are no more enforceable than the state-by-state spending limits of the current Presidential Public Funding Act. These require a precision and timeliness not usually found in campaigns. The present enforcement process at the FEC takes years to complete, meaning it can have no effect on the outcome of an election and is no deterrent. The list of violations in recent years makes this obvious.

In 1976, now President Ronald Reagan was a violator in New Hampshire. My dear friend and colleague and revered Arizonan, MORRIS UDALL, was also a violator in the State of New Hampshire. In 1980, Carter in New Hampshire, Iowa, and Maine; KENNEDY in New Hampshire and Iowa; LaRouche in New Hampshire; Reagan in New Hampshire. I would have thought that President Reagan might learn in New Hampshire. In 1984, Mondale in New Hampshire, Iowa, and Maine; GLENN in New Hampshire and Iowa; CRANSTON in Iowa. And I might add that all of these individuals are decent, honest individuals who I am sure had no intention of violating the FEC campaign laws. I am convinced of that, knowing these individuals as I do. However, that does not change the fact that action was not taken in anything near a timely fashion.

Let us talk about the constitutionality of S. 2.

The constitutional standards by which S. 2 must be measured were set out by the Supreme Court in *Buckley, v. Valeo*, 424 U.S. 1 (1976).

In order to survive a first amendment challenge, S. 2 must either advance constitutionally compelling Government interests to justify the restriction in speech caused by spending limits or provide a voluntary restriction agreed to as a condition for public financing. The Court found that spending limits did not advance any compelling Government interest, and were unconstitutional. The Court stated: "[T]he mere growth in the cost of Federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of Federal campaigns."

Accordingly, S. 2's authors have attempted to craft a bill that provides voluntary spending restrictions as a precondition for receiving public money. But S. 2, in my opinion, cannot pass constitutional challenge just by calling its spending limits "voluntary" since it is, in reality, an attempt by the Government to impose indirectly a restriction on speech that it may not accomplish directly.

S. 2 is not truly voluntary since a candidate must declare by a prescribed time whether he will abide by the spending limits. Once declared, a participating candidate may not change his mind and spend above the limit without incurring sanctions, even

though the candidate has not received any public benefit. Thus, the Government is punishing an individual for exercising his constitutional right to free speech, without providing the mandated benefit.

A candidate who agrees to the spending limits has, at best, only a chance to receive public financing. If his opponent also agrees to the spending limits, there is no public financing. Thus, the first candidate has given up his right to free speech without being able to receive the constitutionally mandated reward. The only thing a candidate gains by giving up his right to free speech is the assurance that his opponent will not receive taxpayer money.

S. 2 mandates the Government to repress speech by funding the opponent of a candidate who exercises his right to free speech.

If a candidate chooses not to participate by fully exercising his constitutional right to speak and not observe the spending limits, he is punished by the Government because his opponent will receive taxpayer money to expound his contrary views. Thus, the Government enters the political debate by subsidizing one candidate simply because the other candidate has opted to exercise without restriction his right to free speech. This exacts an unconstitutional penalty by making the size of the public subsidy to the candidate's opponent dependent upon the candidate's own first amendment conduct.

Now let us talk about the money myth.

The Republicans all have more money, the Republicans all are receiving more PAC money, Republicans are always better financed. I think it would be well to note that the reason Republicans are better financed is because we get significantly higher individual donations from Americans all across this country.

As I mentioned earlier, and I am searching for the number again, in the 1986 elections Democrats, Senate and House candidates received 55 percent of all contributions made by political action committees to 45 percent for Republican candidates. In addition, PAC contributions accounted for an addition of 37 percent of money raised by Democrats, Senate and House candidates, to 28 percent for Republican candidates.

The fact is, my friends, that that percentage is increasing in 1988 probably due to the fact that the Democratic Party is in control of both Houses of Congress. So where does the Republican Party get its money?

I see my esteemed friend and colleague, the Senator from Minnesota, here, Senator BOSCHWITZ, who keeps a very close eye on where Republican contributions come from.

I would ask that I could yield a moment to my colleague from Minnesota who would be glad to illuminate us as to the amounts of money that Republican candidates are receiving and from whence they came so that we can talk about this myth about who gets the most money where.

Mr. BOSCHWITZ. I would say to my friend from Arizona that in 1986 the Democrats received 56.5 percent of PAC money, and the Republicans 43.5 percent.

Mr. BYRD. Madam President, I make a point of order that the Senator can only yield for a question.

The PRESIDING OFFICER. The Senator from Arizona can only yield for a question.

Mr. BOSCHWITZ. I would say to the President, Madam President, that he asked me a question and I am now answering it.

Mr. BYRD. Madam President, the Senator who has the floor cannot ask a question and hold the floor. He can yield for a question.

The PRESIDING OFFICER. The point of order is made and it is correct.

Mr. McCAIN. I appreciate, and I am sure we will have an opportunity later in this debate hearing from my distinguished friend from Minnesota who is indeed the chairman of the Republican Senatorial Campaign Committee. He keeps up with these numbers and figures very well.

But the fact is that the overwhelming majority of the money that the Republican candidates receive are from small contributions. I am sure that there has been some narrowing of that gap, but let us not have any allusions as to where both parties come from.

Does my distinguished acting leader request that I yield to him?

Mr. SIMPSON. Madam President, I do not believe——

Mr. McCAIN. May I conclude my remarks so we can have a quorum?

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll and the following Senators answered to their names:

[Quorum No. 6 Leg.]

Bingaman	Exon	Packwood
Boschwitz	Hatfield	Proxmire
Byrd	Levin	Quayle
Cranston	McCain	Simpson
Domenici	Mikulski	Thurmond
Durenberger	Mitchell	

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

Mr. SIMPSON. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 6 Leg.]

Burdick	Glenn	Sanford
Conrad	Heflin	Warner

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

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 6 Leg.]

Adams	Graham	Riegle
Bensen	Grassley	Rockefeller
Boren	Karnes	Sasser
Chafee	Leahy	Shelby
Danforth	McClure	Specter
Dixon	Moynihan	Wallop
Dodd	Nickles	Wirth
Ford	Pell	

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. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent on illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. EVANS], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND] is absent due to illness.

The result was announced—yeas 57, nays 21, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—57

Adams	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Graham	Moynihan
Bingaman	Grassley	Nunn
Boren	Harkin	Pell
Boschwitz	Hatfield	Proxmire
Bradley	Heflin	Pryor
Breaux	Heinz	Reid
Bumpers	Humphrey	Riegle
Burdick	Inouye	Rockefeller
Byrd	Johnston	Roth
Conrad	Kassebaum	Sanford
Cranston	Kerry	Sarbanes
Danforth	Leahy	Sasser
Daschle	Levin	Shelby
Dixon	Matsunaga	Simpson
Dodd	McClure	Stevens
Exon	Melcher	Thurmond
Ford	Metzenbaum	Wirth

NAYS—21

Armstrong	Helms	Quayle
Chafee	Karnes	Specter
Cohen	Kasten	Symms
DeConcini	McCain	Wallop
Domenici	Murkowski	Warner
Durenberger	Nickles	Weicker
Hatch	Packwood	Wilson

NOT VOTING—22

Biden	Gore	Pressler
Bond	Gramm	Rudman
Chiles	Hecht	Simon
Cochran	Hollings	Stafford
D'Amato	Kennedy	Stennis
Dole	Lautenberg	Trible
Evans	Lugar	
Fowler	McConnell	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The distinguished minority leader.

Mr. SIMPSON. Madam President, I ask unanimous consent that it be in order at this time to request the yeas and nays on amendment 1404.

Mr. BYRD. Madam President, I object. When it comes to the point where that amendment is before the Senate, I will have no objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Madame President, I would ask for a few moments of attention from my colleagues on this subject that has quite rightly occupied so much of our time. It is not a subject that is of recent interest to anyone on this floor. It is certainly not of recent interest to me. In fact, my interest in this subject of campaign reform predates my service in the U.S. Senate. It goes back many, many years to my days when first in office as mayor of San Diego. But I get ahead of myself.

For the moment, let me just review for the purpose of illustration why it is that we are taking the time and expressing in such energetic terms our different views of the need for campaign reform. It is no secret, whether anyone has turned in just this moment or whether they have been following this debate from its inception, that campaigning has become a very expensive proposition. And that is true not simply in the U.S. Senate, it is becoming more true at every level.

If you look at State legislative campaigns, they used to be waged for relatively little money. Now they are getting quite sophisticated and quite expensive; some might argue unnecessarily so, that the sophistication exceeds the need to communicate with the voters in more direct fashion.

But, of course, when it comes to the U.S. Senate and those who represent our 50 States here on this floor, because we represent States so different in size and with such different opportunities for communication to our constituency, it becomes very difficult, indeed, for a generalized prescription that can apply equitably in every situation.

Still, there are certain fundamental principles that do excite the interest of all of us here who are concerned with the functioning of Government as it should function, which is to say with both the fact and appearance of fairness, absent undue influence.

The elements of campaign reform, Madam President, are, roughly speaking, an effort to limit contributions so as to avoid taking too much money from a single contributor. Why? Obviously, because we wish to avoid both the fact and the appearance of undue influence.

Other efforts have centered on requiring disclosure, as indeed we do in Federal law and as most, now, State and local ordinances worthy of the names, also require disclosure.

Finally, there is the subject that is occupying so much of our time and attention in connection with the proposal that we have described as S. 2, which has to do with the imposition of spending limits and also, although there seems some reluctance to confront the issue head-on, public financing of election campaigns in contrast to the situation where now we are compelled, each of us, to raise his or her own funds, to spend them for our election or reelection.

If those are the elements, Madam President, then, again, what are the purposes? Why do we take such time and effort? Why do we concentrate? And why have we had seven cloture votes? Well, it is because it is important. The fact of undue influence clearly is important, and something that cannot be tolerated. Its appearance is unhealthy. So we are right to be as concerned as we have been on this floor.

A moment ago I said that my interest goes back to the time when I was first mayor of San Diego. It was a somewhat simpler setting. The undue influence about which I was concerned had to do with the influence of real estate developers upon local government. It became rather clear that the major source of funds available to local candidates, candidates for city council, for county office, came from those who were involved in development of real estate.

It became clear, too, that there had been abuses; that there had been a little less than care exercised by a great many people as candidates for office. They had not seen to it that there was only a modest amount, or a reasonable amount taken from any one source. Instead, some had taken much too much from a single source, and a source in which they would inevitably be involved in voting to give or to withhold some needed legal permission in order for that contributor to go forward with an economic expectation.

A whole myriad of decisions, obviously, flow from those local land use decisions. The rate of growth in a community; the ability of taxpayers to provide the necessary level of support for new and growing infrastructure needs occasioned by new development proposals. So, obviously, Madam President, it is not surprising that in the living laboratory of a city experiencing dynamic growth, focus would quickly come to rest upon the election campaign process.

Well, to make a very long story short, I became concerned with both the fact and the appearance of undue influence. In my own campaign for mayor I announced that accordingly I would take no more than $300 from anyone engaged in real estate development. It was to develop that that was a somewhat academic and unnecessary admonition. But the fact of the matter is, I think it was a good thing to do and later, after I had become mayor, I sought to enlist the support of my city council on a proposal which I sponsored that proved to be something of a precursor, if not a model, to Federal law as we know it today in the following respects.

It first limited campaign contributions. It said that only individuals could contribute; no corporation, no partnership, no labor union, no one but an individual could make a contribution to a candidate for mayor or for the city council. And these individual contributors were limited in the amount that they could contribute. Indeed, many argued that the limitation was too severe and that we should have been more realistic; that in our efforts to broaden the base and compel candidates to go far and wide in search of support, we made their burden unduly difficult by making that limit so unreasonably low. That certainly was arguable but I am not convinced that it was right. It may be today. It has not been changed very much if any. And certainly the costs of campaigning have continued to rise.

But, what we did was to say: There will have to be that effort on the part

of candidates, whether they like it or not, and it will be a good and healthy thing because we will thereby eliminate both the fact and the appearance of any undue influence. No one who is a developer will be seen to have anyone in his or her pocket because it will be impossible for them to give enough money to create that impression.

In addition to that limitation, we also sought to impose a spending limit upon what an individual candidate could spend. The reasoning, very simply, was that some very wealthy candidates with large personal fortunes would be in a position to compete unfairly with those of modest means; those with talent and energy and conviction but without great personal resources.

The other things that we did, we said in connection with there being a prohibition against corporate or union giving with only individual contributors being allowed to contribute, there could be no problem of the kind that we have heard described on this floor as that relating to soft money. A labor union could not make available through its funds a bucket shop, an operation of telephones. It certainly was not illegal for members of that union or for employees of a corporation, as volunteers, to undertake voluntary effort whether it be going from door to door, doing precinct work, distributing literature, registering people, getting them out to vote; that was obviously not to be discouraged and on the contrary was encouraged. But expenditures of the kind that are not required under Federal law to be reported, and which therefore are only occasionally evaluated by some energetic and curious reporter, were forbidden under that ordinance.

There was no permission for PAC's, for political contributions by political action committees, to be made under that ordinance. Indeed, it was described at the time, which was in advance of the enactment of the present Federal restrictions, as the toughest campaign election reform ordinance in the Nation. It was described by Newsweek magazine in those terms. I think that was clearly true then and it seems to me that that ordinance, if it was not a model for Federal law, might well stand as one today because it does limit contributions to individuals. Corporations may not contribute. Labor unions may not contribute. Partnerships may not contribute. Political action committees may not contribute. And there can be no soft money expenditures. Only individuals who care enough to give up to the limit, which is stated in the law, can do so.

Now, on the spending limit. Well, on that proposal we lost. We lost in the Supreme Court of the United States in the celebrated Buckley versus Valeo decision. The Supreme Court as you have been told before found that first amendment rights outweighed whatever public good might inhere or be thought to inhere by a city council such as ours, in limiting expenditures by a wealthy candidate.

You can argue the point, but we argued and lost. So that spending limit was shot down.

Madam President, I should tell you that before we decided to impose that spending limit, we abandoned an earlier notion, which was to have overall spending limits as a second brake in addition to the limits upon campaign contributions, but we finally decided that that really would not work, that it would result in the kind of thing which, in fact, we have seen with respect to spending limits in the Presidential candidacies, and that is a wonderfully imaginative and energetic effort to inveigh them.

This campaign ordinance, of which I speak with some pride, was the result of an effort by a group that consisted of our city attorney, the then chairman of Common Cause for that county, later to be the State chairman, at a time when elaborate State reform was undertaken, representatives of the district attorney's office, private attorneys. It was a thoughtful group, and they finally concluded that those spending limits simply would not work.

Madam President, we come to the present moment and S. 2. It is not the original version of campaign reform that was brought before us last year in which there was outright direct, explicit public financing as a cardinal point and feature. That has yielded to indirect public financing and, once again, we are told that there must be limits upon undue influence and, therefore, that there must be limits upon PAC's and there must also be spending limits. We are told that there must be spending limits because it distracts those of us on this floor from doing our job. We are compelled to spend too much time and energy engaging in the business of fundraising for our campaign.

Anyone who has run for public office knows that it does take energy, that it does require a tremendous expenditure of personal time and effort, but, I must say, that we also know that we understood that coming in. We are all volunteers. No one drafted us for public office. In fact, we all struggled mightily and competed with very good people in order to have the privilege of holding these seats.

Let me come back to the arguments that have been made by the eloquent proponents arguing on behalf of S. 2. I read with some interest an argument that I heard only partially the other day when I was called to other duties. I went back to the CONGRESSIONAL RECORD and read the remarks of my good friend, the distinguished Senator from Oklahoma [Mr. BOREN] one of the proponents and one of the chief sponsors of S. 2.

At great length and with his customary eloquence, he recited the facts that had to do with the "skyrocketing costs of campaigning," as he put them. He said, "The cost of campaigning is skyrocketing at an alarming rate," and he, thereafter, recited statistics that certainly vindicates that judgment.

He went on to say, "Mr. President, that is not a healthy thing for our political system. It distracts us. It conveys an image to the public that we are being unduly influenced by those who are in position to give large campaign contributions and the time that should be spent in these challenging days in which we live, in which we grapple with ways to restore the productive competitiveness of this country so we do not become a second-rate economic power." He went on at some length, and he said finally that we should not do that.

But let me come back to his point about being unduly influenced by campaign contributions that are too large.

Madam President, we have already addressed that particular problem. We do limit campaign contributions. There are only two classes of persons who can give—individual contributors and political action committees. We limit individuals to $1,000 in the primary election and $1,000 in the general election, and that is true whether we are talking about Rhode Island or Louisiana or whether we are talking about California.

It is true in a State with a small population. It is true in a State with an enormous population, like my own, a mini-nation with 27 million people, going on 28 million. It is true, whether we are talking about a State with media markets that charge a relatively modest rate, or it is true of those that have the most expensive media costs in the world, like those, unhappily, in my own State in which Los Angeles County boasts the dubious distinction of being the most expensive in the world.

In fact, I can relate, to make the point, an anecdote. Going back to my own 1982 campaign, we had one 30-second television spot during the primary which we thought was particularly effective. In order to share that with the audience in the greater Los Angeles area, we thought it would be a marvelous thing if we could afford to spend enough to put that 30-second spot on prime time just once in the Los Angeles market on a major station.

So we priced the cost of one 30-second television spot on 60 Minutes just for the Los Angeles market area. The cost turned out to be $30,000 for that 30-second spot. That was in May of 1982.

Ever since then, every time that I see the show 60 Minutes, and I see it open with their logo, the stopwatch clicking off the seconds, I understand what it means. It is $1,000 per second in the Los Angeles market area. At least it was in May of 1982.

Yes, the costs are enormous, but we have done the thing that we were supposed to do. First, Madam President, we have limited campaign contributions and, as I say, only two classes can make contributions: Individuals, and clearly we do not wish to prohibit that, and, secondly, political action committees.

We come back to Senator BOREN'S point about undue influence. Political action committees are limited in what they can give, but they can give $5,000 per primary election per candidate and $5,000 per candidate in the general election.

I am not going to take the time to rehash what has been said at great length and, in particular, by the proponents of S. 2 having to do with the abuses that arise from political action committee giving. Whether you agree or do not agree with that, it is certainly true that there has been enough written, enough printed and enough said about it so that now political action committee giving has, in the minds of the public—at least many citizens—become tainted.

While I do not think that fair, if that is the case, if, Madam President, we are necessarily concerned with not only the fact, but the appearance, of undue influence to keep our process healthy, then I say, let us not simply wring our hands and inveigh against the evils of that system. It seems to me the cure is readily at hand and very simple—let us do away with political action committees; let it be no longer possible for political action committees to contribute to political campaigns for Members of Congress. It is that simple. We can do it quickly.

My saying so will, undoubtedly, irritate many people, and it certainly is true that until we have legally eliminated political action committees, most of the people on this floor will, of necessity, in order to compete, continue to take money from them. But why should we not simply eliminate political action committees and have done away with this thorny problem of the appearance of undue influence from special interests about which we hear so much?

S. 2 does not propose to do that, Madam President. It would retain political action committees. I say let us have done with this problem. Let us have done with political action committees. And, of course, the Republican alternative that has been proposed by my colleague from Oregon, by Senator MCCONNELL from Kentucky, proposes to do just that.

So it seems to me, Madam President, that what we want to do is we want to make it possible for the public to believe that we are not distracted from what we do, certainly not by undue influence.

Yet, I will tell you it would make my life much easier as it would any candidate if we had public financing, either direct or indirect. And frankly, there has been such a hue and cry raised about public financing in a direct fashion that it does not surprise me that our colleagues proposing S. 2 have sought now to propose it indirectly. But the costs will be essentially the same. It would make my life easier, it would make it much more convenient, but, Madam President, is that an urgent public priority? Does that rank with spending the money instead for research into a cure for AIDS or Alzheimer's? Should we cut $117 million, as the House of Representatives persuaded the conferees to do just this past December, from the Coast Guard budget so that they are now so curtailed in routine drug interdiction missions that they really can no longer perform them?

What is more important, Madam President, interdicting the supply of drugs into this Nation and keeping our children and law enforcement agents far freer of the threat of drugs on the streets of America than they are today because of the tremendous curtailment of that interdiction mission or is it more important that we honor our own convenience and make life easier for candidates?

Well, I think there is no comparison. Others have gotten into the costs. They have looked at the Presidential experience.

I will only say this: If we were to go to what S. 2 proposes, the costs would be hellish. They would greatly exceed those of even the Presidential experience, and those are mounting with each time. We would encourage candidates to become "imaginative" or to put it in more blunt terms, "to find ways to evade the law." It has happened recently in Iowa. One candidate, a successful candidate, appears to have deliberately broken the law because it was worth it to pay the fine.

Madam President, this is an ill-considered piece of legislation. It should not be passed. I can only hope that this Senate has the courage to do what is right. Our convenience is not an urgent public priority. Let us get about the public's business.

Madam President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I appreciate the remarks of the Senator from California and also the remarks of others of our Members who have spoken on this issue tonight. We apparently have a large agenda of those speakers tonight and on into the morning. That is regrettable but that is the test I guess that confronts us. But awaiting some Members, I suggest the absence of a quorum.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. SIMPSON. Madam President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will call the roll.

The assistant legislative clerk continued the call of the roll, and the following Senators answered to their names:

[Quorum No. 7 Leg.]

Adams	Dixon	Johnston
Breaux	Exon	Mikulski
Byrd	Graham	Simpson
Conrad	Harkin	
Cranston	Heflin	

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

Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to request attendance of the absent Senators, and I ask for the yeas and nays on the motion.

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. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr.

KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Vermont [Mr. STAFFORD], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. WILSON], are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM], is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND], is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN], is absent due to illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS], is absent because of a death in the family.

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

The result was announced—yeas 47, nays 1, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—47

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

NAYS—1

DeConcini

NOT VOTING—52

Armstrong	Boschwitz	Cochran
Biden	Chafee	Cohen
Bond	Chiles	D'Amato
Danforth	Humphrey	Rudman
Dole	Karnes	Simon
Domenici	Kassebaum	Simpson
Durenberger	Kasten	Specter
Evans	Kennedy	Stafford
Garn	Lugar	Stevens
Gore	McCain	Symms
Gramm	McClure	Thurmond
Grassley	McConnell	Trible
Hatch	Murkowski	Wallop
Hatfield	Nickles	Warner
Hecht	Packwood	Weicker
Heinz	Pressler	Wilson
Helms	Quayle	
Hollings	Roth	

The PRESIDING OFFICER. On the motion to instruct the Sergeant at Arms, there are 47 yeas; there is one nay. The motion is agreed to.

The Clerk will continue the call of the roll for the absent Senators.

Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusettes [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

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

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Vermont [Mr. STAFFORD], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND] is absent due to illness.

The result was announced—yeas 45, nays 3, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—45

Adams	Dodd	Mikulski
Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Bingaman	Fowler	Nunn
Boren	Glenn	Pell
Bradley	Graham	Proxmire
Breaux	Inouye	Pryor
Bumpers	Johnston	Reid
Burdick	Kerry	Riegle
Byrd	Lautenberg	Rockefeller
Chiles	Leahy	Sanford
Conrad	Levin	Sarbanes
Cranston	Matsunaga	Sasser
Daschle	Melcher	Stennis
Dixon	Metzenbaum	Wirth

NAYS—3

DeConcini	Heflin	Shelby

NOT VOTING—52

Armstrong	Hatch	Pressler
Biden	Hatfield	Quayle
Bond	Hecht	Roth
Boschwitz	Heinz	Rudman
Chafee	Helms	Simon
Cochran	Hollings	Simpson
Cohen	Humphrey	Specter
D'Amato	Karnes	Stafford
Danforth	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Kennedy	Thurmond
Durenberger	Lugar	Trible
Evans	McCain	Wallop
Garn	McClure	Warner
Gore	McConnell	Weicker
Gramm	Murkowski	Wilson
Grassley	Nickles	
Harkin	Packwood	

Mr. SIMPSON. Mr. President, how much time is yet remaining?

The PRESIDING OFFICER (Mr. ADAMS). Time has just expired.

Mr. SIMPSON. I would ask that regular order be invoked.

The PRESIDING OFFICER. Regular order.

Mr. LEAHY. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Vermont is recorded in the affirmative.

On this vote, the yeas are 45, the nays are 3, and the motion is agreed to.

The clerk will continue to call the names of the absentee Senators and the Sergeant at Arms will execute the order of the Senate.

The bill clerk resumed the call of the roll.

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

The assistant legislative clerk resumed the call of the roll.

Mr. MOYNIHAN. Mr. President, the Senator from Mississippi seeks recognition.

The PRESIDING OFFICER. A quorum call is in progress. Has the Senator from Mississippi been recorded? The Senator from Mississippi is recorded.

Mr. STENNIS. Thank you.

The assistant legislative clerk resumed the call of the roll.

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

The assistant legislative clerk resumed the call of the roll.

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

The assistant legislative clerk resumed the call of the roll.

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

The bill clerk resumed the call of the roll.

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

The bill clerk resumed the call of the roll.

The PRESIDING OFFICER. The Chair will announce a quorum is not present.

The assistant legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Here.

The PRESIDING OFFICER (Mr. BREAUX). Fifty-one Senators having answered the quorum call, a quorum is present.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, this is the second time in my service in the Senate as a Member of the leadership that I have been compelled to move that the Sergeant at Arms arrest Senators. In both instances, of course, I was reluctant to do that, sorry to do it, but I felt I had a duty to do it.

I want to compliment Senator PACKWOOD for the fine spirit in which he has accepted the inevitable and I want him to know that I regret that this had to be done, but he has shown the finest of examples by his smile, his good humor, and I want to thank him for helping the Senate to get a quorum.

Mr. PACKWOOD. Might I say to my good friend I did not come fully voluntarily. The Sergeant at Arms and all of his stout men surrounded my office. Let me simply say I am transferring the colors to another ship and shall fight on in some other fashion.

Mr. BYRD. Mr. President, the distinguished Senator is a very valiant and formidable fighter, may I say.

I also want to thank our Sergeant at Arms. I think we can all sense the situation that the Sergeant at Arms is put in when he is called upon to arrest the Senators. But he did his duty. He did his duty.

And I know he feels badly about having to carry out the order of the Senate, but that is precisely what it is, not an order of the majority leader. It is an order of the Senate of the United States, and I commend him highly and thank him.

I regret, Mr. President, that this had to happen. But it is not something of my making.

Were I a Senator and the Senate ordered my arrest I would come and the Sergeant at Arms has as much authority to arrest a Senator if he is carrying out the order of the Senate as does any police officer or other law enforcement officer in this land. The Senate is clothed with that authority.

Let me read first the rule of the Senate. I think the record should be the full record.

Rule VI, paragraph 2:

No Senator shall absent himself from the service of the Senate without leave.

Paragraph 3:

If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

Paragraph 4:

Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; . . .

Now, there is a higher rule, Mr. President, than rule VI of the Standing Rules of the Senate. Let me read from the Constitution of the United States, the organic instrument that created this institution and which derives its being and its power from the sovereign will of the people of this country. Section 5, article I, of the Constitution.

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

So, there it is in the Constitution of the United States.

Senators might do well to refresh their memory of that, I would say, sacred document.

So, I hope that Senators will understand that there is some of us who have a duty to carry out our responsibilities, and I have never shirked from mine.

We have seen that the opposition is not willing to vote on meaningful campaign financing reform, not willing to talk on the pending legislation, and ultimately not willing to stay on the job.

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

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

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

Senators Brock Adams, J.J. Exon, Edward Kennedy, Daniel K. Inouye, David Boren, Harry Reid, Howard Metzenbaum, Wendell H. Ford, Terry Sanford, Carl Levin, Jay Rockefeller, Dale Bumpers, Tom Daschle, John Glenn, George J. Mitchell, Bill Bradley, Paul Sarbanes, Albert Gore, Jr., Max Baucus, and Robert C. Byrd.

Mr. BYRD. Mr. President, I also want to thank Senator SIMON for responding to our call. We had one Senator who could not be present because his wife's mother died, Senator HOLLINGS. We had two Senators who could not be present because they were physically unable to come, Senator BIDEN and Senator KENNEDY.

We have one Senator who is out campaigning for the Presidency, and one Senator on the other side of the aisle, Mr. DOLE, of course is out campaigning for the Presidency and could not be here.

Every Senator knows his duty. It is not up to me to tell any Senator what his duty is. Each Senator takes an oath to uphold this Constitution of the United States. Every Senator knows his duty to his people, and every Senator will have to answer to his own constituency for his conduct here.

MOTION TO PROCEED TO EXECUTIVE SESSION TO CONSIDER KOROLOGOS NOMINATION

Mr. BYRD. Mr. President, I move that the Senate go into executive session to consider the nomination of

Tom C. Korologos, Calendar Order No. 523, 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 the motion to proceed in executive session.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

QUORUM CALL

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

The PRESIDING OFFICER. The Senator from Wyoming makes a point of order a quorum is not present.

The clerk will call the roll in order to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators answered to their names:

[Quorum No. 8]

Adams	Domenici	Simon
Boren	Leahy	Simpson
Breaux	Mitchell	
Byrd	Moynihan	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the roll of those Senators who did not answer the first call.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 8]

Baucus	Graham, Florida	Packwood
Bentsen	Grassley	Pell
Bingaman	Harkin	Proxmire
Bradley	Hatch	Pryor
Bumpers	Heflin	Reid
Burdick	Humphrey	Riegle
Chiles	Inouye	Rockefeller
Conrad	Johnston	Sanford
Cranston	Kerry	Sarbanes
Daschle	Lautenberg	Sasser
Dixon	Levin	Shelby
Dodd	Matsunaga	Specter
Exon	Melcher	Stennis
Ford	Metzenbaum	Stevens
Fowler	Mikulski	Warner
Garn	Nunn	Weicker
Glenn		Wirth

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 on the motion.

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. 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 Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

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

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from Nebraska [Mr. KARNES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND] is absent due to illness.

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

The result was announced—yeas 51, nays 9, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—51

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

NAYS—9

Domenici	Hatch	Specter
Garn	Humphrey	Warner
Grassley	Packwood	Weicker

NOT VOTING—40

Armstrong	Gramm	Nickles
Biden	Hecht	Pressler
Bond	Heinz	Quayle
Boschwitz	Helms	Roth
Chafee	Hollings	Rudman
Cochran	Karnes	Simpson
Cohen	Kassebaum	Stafford
D'Amato	Kasten	Symms
Danforth	Kennedy	Thurmond
DeConcini	Lugar	Trible
Dole	McCain	Wallop
Durenberger	McClure	Wilson
Evans	McConnell	
Gore	Murkowski	

So the motion was agreed to.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second on the request of the majority leader?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to go into executive session to consider the nomination of Tom C. Korologos to be a member of the U.S. Advisory Commission on Public Diplomacy.

On this question 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 Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

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

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUM-

PHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. TRIBLE], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

I further announce that the Senator from Missouri [Mr. BOND] is absent due to illness.

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

The result was announced—yeas 64, nays 0, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—64

Adams	Graham	Packwood
Baucus	Grassley	Pell
Bentsen	Harkin	Proxmire
Bingaman	Hatch	Pryor
Boren	Hatfield	Reid
Bradley	Heflin	Riegle
Breaux	Inouye	Rockefeller
Bumpers	Johnston	Sanford
Burdick	Kasten	Sarbanes
Byrd	Kerry	Sasser
Chiles	Lautenberg	Shelby
Conrad	Leahy	Simon
Cranston	Levin	Simpson
Daschle	Lugar	Specter
Dixon	Matsunaga	Stennis
Dodd	Melcher	Stevens
Domenici	Metzenbaum	Symms
Exon	Mikulski	Warner
Ford	Mitchell	Weicker
Fowler	Moynihan	Wirth
Garn	Murkowski	
Glenn	Nunn	

NAYS—0

NOT VOTING—36

Armstrong	Evans	McClure
Biden	Gore	McConnell
Bond	Gramm	Nickles
Boschwitz	Hecht	Pressler
Chafee	Heinz	Quayle
Cochran	Helms	Roth
Cohen	Hollings	Rudman
D'Amato	Humphrey	Stafford
Danforth	Karnes	Thurmond
DeConcini	Kassebaum	Trible
Dole	Kennedy	Wallop
Durenberger	McCain	Wilson

So the motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I hope that Senators will accede to this request. It is my plan to ask unanimous consent that the yeas and nays on Mr. Korologos be withdrawn, that we voice vote that nomination. I will then move to go back into legislative session, not ask for a rollcall vote, just voice vote it, or I will ask unanimous consent to go back to legislative session so there will be no rollcall vote on that and we will be back on the campaign financing reform bill.

There will be Senators on the other side of the aisle who will speak until 10 o'clock tomorrow. There will be no quorum calls, no motions, no rollcall votes, but there will be continued debate carried on by our friends on the other side of the aisle. And Senators can get some sleep, those who are not speaking over there, and we will need one or two on this side to have a respectable showing for the majority. So I hope nobody will object.

Mr. President, I thank Mr. SIMPSON for helping to work out this approach which will give Senators an opportunity, the most of us, an opportunity to get a little rest.

Mr. President, I ask unanimous consent that the call for the yeas and nays on Mr. Korologos be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the nomination.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The bill clerk read the nomination of Tom C. Korologos, of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SIMPSON. Mr. President, 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 unanimous consent that the President be immediately notified of the confirmation of this nomination.

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.

Who seeks recognition? The Senator from Wyoming.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill S. 2.

Mr. SIMPSON. Mr. President, let me kind of review the bidding here, if I may, for a moment. I thank the majority leader for reaching a concurrence on a result which prevents us from having two additional rollcall votes this evening—this morning, which would have been assured, while many of our Members are not present. Realizing that the majority has furnished their quorum, and that was something that was intended as we deal with the activities of the evening; regretted but intended; so with this we have avoided that result of two more rollcall votes and avoided, too, what would have been a continuing debate on the nomination of Tom Korologos from this side—an old procedure, which would have been presented. So we have avoided that.

We now will go into our continued ritual here until the morning hour of 10 under the unanimous-consent agreement. And so let me say, Mr. President, I most certainly do not enjoy employing these tactics. As the acting leader, that is not the finest hour for me. That is not the way I like to do business.

I think it is unbecoming to the Senate, also. And, as I say, not seemly for this Senator.

But the majority leader, as is his right, is insisting that members of this side of the aisle remain here around the clock to prevent final action on S. 2 and we felt, or at least a great majority of those on this side of the aisle, or on this side of the issue, because there are two on that side of the aisle who are on our side of the issue and three on our side of the aisle who are on that side of the issue, that it was felt by the majority of our persons that it was only fair that we insist on the members who are the opponents of the issue providing the quorum that is necessary for transacting business. That was done to the disruption of most of us in the evening hour.

Then, of course, rather than forcing this on through to yield to these tactics, the majority leader had an alternative available, which he has now exercised, and that is to file cloture.

At one time during the debate another member of the opponents of the legislation even agreed to propose a unanimous-consent request which would have provided that it would have been determined that a cloture petition had been filed and that the 2-day rule would have been waived and a time certain for a vote on cloture would have been obtained. That, of course, was not received because, of course, the petition had not been filed. But in its mythical context it was an interesting proposal because it would have gotten exactly where the majority leader would have intended to get and that was a vote on this issue because the majority leader speaks often and sincerely about voting on this issue. There is a way to vote on this issue. It will, apparently, come Friday and it will be a motion on cloture and it will fail just like it has failed seven consecutive times.

I want at least the RECORD to disclose to what benumbed members of the American public can possibly be watching that we have had a most feckless exercise and that is why we have fecklessly gone to 3 o'clock and will fecklessly go to 10 o'clock without further quorum calls; because when we get to Friday there cannot possibly be more than 57 votes for cloture.

Our fine colleague, Senator BIDEN, and we all wish him Godspeed and complete recovery, will not be here. Perhaps there will be others who will not be here. But in any event the high water mark in seven previous votes has been 57.

I do not want anybody to miss that, as we call for votes on this critical issue before the American public. The critical issue before the American public is top dog-underdog. That is what the critical issue is for the American public to watch and pay attention to and I, too, want to commend Henry Giugni, our Sergeant at Arms.

That must be the toughest duty that anyone ever has had to perform. With sweat on his brow he went forward and searched these warrens and caverns for our colleagues and he performed that very well. I say, too, that Senator PACKWOOD made quite an entrance. Many of you missed that. That was quite impressive indeed.

Indeed, I shant forget it. And I am sure he will not. It was done in good humor. We needed that at this hour. To Henry Giugni I certainly can understand his reluctance and his reticence to perform the task that he had to do. But let us say that there was no dysfunction of those who are opposed to this bill. We knew exactly what we were doing. We were doing it within the scope of the previous debate, and the activities that have preceded this legislation.

And so we will be able to explain ourselves fully as to what we were doing on this issue because in a sense it is very simple. As the majority leader cited from the rules, and from even the Constitution of the United States, there is an ever more important rule that has been elevated to status in the United States, and it is called tyranny of the majority. That is the essence of this effort. And I do not think it is very becoming and I think the American people understand it perfectly. That is what it is. That is not a nasty statement. It is a true statement. And the members of my party were here doing their business and doing it as required under the rules of the Senate. Indeed that is why there is such a thing as a motion to seek the arrest of absent Members, but to impugn that I think is a grave mistake. And for one who cherishes the rules as the majority leader, and I wish he were here and I am sure he will be here, I would cite rule XIX, paragraph 2:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

That is a rule. That was validated tonight when we were addressed as not being on the job, willfully not being on the job. That is a violation of that rule.

So I am sure that in these next hours and days we will be hearing about violations of the Senators on this side who refused to answer the warrant and the subpoenas, or whatever they may have been, and so we will come back and cite that and other things. That is too bad because the real issue to the American people is very simple.

We beat them back seven times and they have not picked up a single horse since, and they are going to get beat the eighth time and we have to go through this exercise for 3 more days. That is what I call top dog-underdog. It is not becoming.

So I just wanted to express that with hope not an intensity, but a clarity, because now I am sure that we will hear various descriptions of what occurred. What occurred is what has occurred seven previous times and every time with a hollow thud. This will be the eighth hollow thud on Friday, and we will have exercised and exorcised ourselves for 3 more days and after 10 o'clock tomorrow morning the fun and games will reach dramatic and rainbow proportions. We will have motions to arrest and to become unarrested, and we will have this and that, and we will have people in extremity, people who are unable to humor their functions while standing in debate, and Lord knows what else.

But let the record show that it did not have to be in any way, not one bit of it. So with that, I would yield under the unanimous-consent agreement and under the conditions of that unanimous-consent agreement to Senator WEICKER.

I yield the floor.

Mr. BYRD. Mr. President, would the distinguished Senator——

Mr. WEICKER. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The majority leader.

Mr. BYRD. Mr. President, I understand the distinguished Senator from Wyoming indicated that he wished I were here.

Mr. SIMPSON. I did.

Mr. BYRD. I am here.

Mr. SIMPSON. I am pleased.

Mr. BYRD. So if he would repeat what he had to say a little earlier, I would be glad to listen.

Mr. SIMPSON. I would be very pleased to do that, Mr. President.

I was citing what was said by the majority leader earlier this morning as he related the conduct of those who are opposed to this bill, and have submitted that as a very clear item through seven consecutive cloture votes last year and now this one which is doomed to the same fate. And in the course of the debate, the comment by the majority leader, I believe the phrase was used that those who were opposed to the bill, and the RECORD would show that, and I would like then to insert those remarks in the RECORD once again as they were originally stated, that to the effect—I do not have it, I have not gone to the reporter—that we were willfully not on the job or some connotation of that essence, if I recall, and as we were citing and as the majority leader was citing from the rules of the Senate, and from the Constitution of the United States a higher form, I am simply saying that to me, to this Senator, that under the rules of debate under rule XIX, paragraph 2, I felt that was a breach of that rule.

And that rule says this: "No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator." That is what I shared and I shared that then, and I share that with the majority leader in person at this time. That was my comment in its entirety.

Mr. BYRD. The Senator did not say anything other than that?

Mr. SIMPSON. That is right.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I am surprised that my good friend would take the occasion when I walked off the floor to make these remarks about me in person. I will say what I said earlier. I have it written down.

Mr. SIMPSON. Please.

Mr. BYRD. "We have seen that the opposition is not willing to vote on meaningful campaign finance reform, not willing to talk on the pending legislation, and ultimately not willing to stay on the job." And I repeat that now. That was said in the context of the circumstances which had just occurred when only one Senator, the distinguished Senator from Wyoming, was here on the floor. All other Senators of the minority had left the floor. And exercising not only my right, but more importantly my duty, to try to keep this Senate going and operating, I made the motion to instruct the Sergeant of Arms to arrest Senators. And I quoted the Constitution, which gives the Senate that authority and that power. I never singled out any Senator by name.

Let me read the Senate rule:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators—

I never named any Senator.

any conduct or motive unworthy or unbecoming a Senator.

Mr. President, it takes a great stretch of the imagination to apply what I said earlier and what I have just said again to that rule. That is stretching the rule and I am surprised that the distinguished Senator from Wyoming would do that.

Mr. President, if I ever have anything to say about another Senator, use his name or refer to him as I understand the distinguished acting Republican leader referred to me, the majority leader, I will not say it until I have called that Senator and sent word for him to come on the floor.

I have proof of that on this floor right tonight. I once had something to say about the distinguished Senator from Connecticut, Mr. WEICKER. I did not say it until he was on the floor. I do not go behind a Senator and I do not wait until he walks out that door and then impugn or impute to him——

Mr. SIMPSON. Mr. President, will the Senator yield for a moment there?

Mr. BYRD. I will yield just when I finish my sentence.

Mr. SIMPSON. All right.

Mr. BYRD. But if I have anything to say critically about a particular Senator of such nature that I feel that he ought to be here to defend himself and to respond, then I will send for him. And the Senator from Connecticut on that occasion came on the floor. We had a little colloquy. It all ended in a very friendly way. I think it was the very next morning I showed up in his office. I went to see him.

I did not violate the rule. I did not name any Senator. The facts speak for themselves. The minority Senators were not here. They were not here. "Ultimately not willing to stay on the job," I said. They did not stay on the job. We even had to enter an order of the Senate to get them on the job. I did not state anything but the fact. I did not single out any Senator, I did not impute to any Senator any conduct unworthy of his being a Senator. And I did not impugn any Senator's character or his integrity.

I am sorry that the distinguished Senator from Wyoming feels that way about it. I did not realize, when we entered into this understanding, that when I walked off the floor, things were going to be said about me.

Mr. SIMPSON. Well, if I may——

Mr. BYRD. I yield without yielding the floor.

Mr. SIMPSON. Yes. That is fine.

Mr. President, when I was making my remarks I was here and as I started my remarks the majority leader was there. That is how——

Mr. BYRD. Here?

Mr. SIMPSON. You were right there.

Mr. BYRD. I was there talking. I did not hear the Senator.

Mr. SIMPSON. I know you were in this Chamber.

Mr. BYRD. I went out. Had I heard the Senator, I would have come back here.

Mr. SIMPSON. I know. I would like to finish my explanation of how I saw that.

Mr. BYRD. All right.

Mr. SIMPSON. If I may, I allowed you to do that, sir.

Mr. BYRD. I have the floor.

Mr. SIMPSON. Fine. We can go play box 'em up all night long.

Mr. BYRD. I am not going to play "box 'em up." Go ahead.

Mr. SIMPSON. I am saying when I spoke you were on this floor.

Mr. BYRD. Mr. President, I ask for the regular order, that the Senator address this Senator in the third person.

Mr. SIMPSON. Mr. President, I always do that.

Mr. BYRD. No. Just then he did not.

Mr. SIMPSON. I do that when I am in the Chair or outside the Chair. I say, Mr. President, I want to finish my remarks. I am entitled to do that.

Mr. BYRD. Just now he used the personal pronoun "you."

Mr. SIMPSON. Mr. President, I do not need instruction after legislating 24 years.

Mr. BYRD. I ask for the regular order, Mr. President.

Mr. SIMPSON. Mr. President, let me finish my remarks, and I hope the Chair will allow that. I certainly allowed the majority leader to do it. As I gave my remarks from this podium, the Senator from West Virginia was in this Chamber. He was right over there. I saw him. As I got to that point in my remarks, he was leaving the Chamber and I said I am going to say this, and I wish the majority leader were in the Chamber.

He is not. And I am going to go ahead and I made my remarks and when I finished my remarks, I stayed right here because I knew the majority leader would return and I have no intent to leave this Chamber. And he did return and he has given his explanation.

So we do not need to go into an orgy of contrition, but let me say I have personally paid some compliments and respect to the Senators in apology a few years ago. That was good. But I do not intend to spend a lot of time doing that. Once was enough. It is not becoming to spend much time doing that.

I can tell you that the remarks were made, and I cited rule XIX, paragraph 2, and if you really think about it, I believe the majority leader has said, Mr. President, that this is the first time he has invoked the motion to arrest Senators. Maybe this is the second time. Perhaps he will develop that.

Mr. BYRD. Second time.

Mr. SIMPSON. The second time in his career——

Mr. BYRD. That is right.

Mr. SIMPSON [continuing]. In the U.S. Senate, a distinguished career of 30-some years.

The very act of sending the Sergeant at Arms to arrest your colleagues to me is a direct effect in itself on the conduct or motive unworthy or unbecoming to a Senator. That is enough. That is called arrest.

I do not know how the majority leader cares to read that. I know how this person reads it as a man who practiced law for 18 years and has done a little legislating, never to the degree this gentleman would do, would not even attempt to match that prowess, but when you see a person use a move like that twice, this is the second time in his entire career in the Senate, it seems to me that that in itself is an impugning of something. That is the way I read that.

So add that about the actual act of moving to arrest fellow Senators, which is a pretty tough cookie approach to what was said, and that is what was said apparently—I am sure the record would disclose that exact language. I am sure it will. And to say that we were willingly not on the job, we were right here, we were all sitting in this cloakroom just as I have seen members of that party when they were in the minority sitting in that cloakroom to avoid meeting a quorum, and that is where they were, in the U.S. Senate on the job, right there, and then when they found that they were to be arrested, which we really did, we knew that was a possibility, but we really never dreamed that that one would pop out of the hat because there are about only four motions you can make when you do not get to a quorum. You can move to adjourn. You can move to compel. You can move to arrest and maybe one other.

And so they then left their area and went to their cubicles on the job. That is where we all spend our time here when we are on the job in our cubicles and that is where Senator PACKWOOD was when they went to his door and opened it with a passkey and pushed it open into his injured arm and now he had to go get another x ray for that, and came here with the best of humor and did that.

Let us leave that out. That is done. It was done with good grace, better grace than this Senator would have ever expressed.

So, that is what I am talking about and that is I guess what I will continue to talk about when I think that things happen that look to me like tyranny of the majority, and I say that that is what that looks like to me and it looks certainly like impugning or imputing a motive unworthy or unbecoming. When you have to arrest someone

they must have done something, especially when we never use it in this place.

So with those dovetailed facts to me it fits well to this Senator, it fits very well into the interpretation of my interpretation of rule XIX of paragraph 2, and I certainly would be glad to debate that further.

Mr. BYRD. I am not interested in debating it. I really am not.

Mr. SIMPSON. Good. I am not either.

Mr. BYRD. But I must say, Mr. President, I am shocked at what I have just heard.

All one has to do is read a little about the history of the Senate and one will find that this order by the Senate to arrest Senators had been made long before ROBERT BYRD ever became a Member of the Senate. I did not originate the precedent.

I have done it twice during my 22 years working in the leadership, and on both occasions I did it when I thought that was the last resort. The distinguished Senator says Senators were on their job and they were in the Cloakroom or they were in their cubicles. There was a rollcall. They chose not to answer that rollcall. They chose not to help the Senate to get a quorum so that it could do business. As majority leader, I had a responsibility to do exactly what I did, because if the majority is going to let a minority stop the Senate from operating and force it out, force the Senators to go home, then the majority is not doing its duty. The majority has not run over the minority tonight.

The majority has tried to keep this Senate in session so it could do its work.

Now, many Senators do not agree with the campaign financing reform bill. They can speak against it. They can vote against it. They can use the rules of the Senate and precedents. They can take dilatory actions, if they want to. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about some things here. I personally think that it was bad judgment on the part of the minority to take the action it did in staying away from the floor when the vote was taken to establish a quorum so that the Senate could conduct business.

I know that there were some on that side who did not agree with the approach that was taken by the minority. They could have kept the Senate from voting on campaign finance reform. They have been able to do it for days, but instead they chose another means. I had to act accordingly, and I may do it again some day.

I do not resort to it casually. It is only in such extremities. After all, we on this side tonight could only produce 50 bodies. That is all we had. Two Democratic Senators were out ill. One Senator was out because of a death in the family. And the other Senator was out running for the Presidency. Only 50 Senators on this side. They were all here, but we could not produce a quorum. It is easy for the minority, if it wants to, to stop the Senate from operating when the majority can produce only 50 Senators. All they have to do is stay off the floor, leaving one Senator here to protect the minority from having the Chair put the question.

Well, I will let the public judge as to whether or not the minority conducted itself appropriately or responsibly. That is what I had reference to in saying, "ultimately not willing to stay on the job."

I have no personal animus against any Senator on the other side. I stated when Senator PACKWOOD came into the Chamber that I regretted having had to make the motion. I did not enjoy it. I do not enjoy being here at 3:30 in the morning. There are many Senators who are probably better able to be up all night than I am able. But it is my duty. And I have always taken the viewpoint that people expect me to do my duty. I have done it.

If I had said anything that merited an apology, I have never been hesitant to apologize to any Senator or to any other person, because I know I can do wrong. I often do wrong. But when I wrong a person I do not want the Sun to set until I go to him and apologize if I have done him wrong. I do not have any apology to make here. I think the Senator is misreading the rule, and I am sorry that he spoke about me when I had left the Chamber. He said I was standing right there. I was not standing there listening to him. If I had been, I would have come back and sat in this Chair, just as I came back when I was told outside what was said by the acting leader.

I was talking to certain Senators about manning the floor for the rest of the evening. I went on up the aisle and continued to talk with Senators about it. I knew Senator SIMPSON was speaking, but I did not listen to what he was saying. I know one thing: If I had had that to say about the Senator and if he were talking over there, I would have paused, I would have said, "I would like to have the attention of the Senator from Wyoming."

But the Senator did not do that. I simply say if I ever have anything critical to say on the floor about Senator SIMPSON, I will send for him, and I will wait until he gets here, and I will then say it.

So I have stated what I said before. I have read it into the RECORD again. Senators can make their own judgment. I have stated the basis for that motion to arrest from the Senate rules, and I have quoted the higher basis in the Constitution of the United States. The framers of that Constitution must have known what they were doing.

Much of our Constitution really goes back to the old English law. If we go back to English history, we will find a good many things in our own Constitution that originated hundreds of years ago and for good reason.

Mr. President, I am sorry the Senator said what he did. I am sorry he feels that way. I am sorry. But I do not have any qualms of conscience for anything I did. If I did have, I hope I would be man enough to apologize. I have always tried to be fair.

So if the distinguished Senator has anything further, I do not want to debate the matter more. He has had his say. I have had mine. If he wants to say anything else, I would be glad to listen.

I am willing to let bygones be bygones, turn our backs on this occurrence, and go on. We have to work together. And I can say to the Senator that when the Sun comes up on this morning, as far as I am concerned, it will be a new day.

I would be happy to yield to the distinguished Senator if he has anything further to say on this subject. And I apologize to the Senator from Connecticut for keeping him waiting. Perhaps I am giving him a rest.

Mr. SIMPSON. Mr. President, I do hear what the majority leader is saying. We will have this bit of combativeness and move on. I, in this situation, do not feel an apology is something that should be tendered by me nor by him. It is called what happens when you get into something that is so feckless, because this is a loser. It cannot be won. This is not the great issue of our time. And it surprises me that we put this import on it, calling it the last resort. That is extraordinary. This is an issue that we have addressed seven previous times.

And I say respectfully that denying a quorum is certainly considered part of the job of the Senate because there is no one more masterful in doing that as a Member of the minority than the majority leader. It is the essence of Senate activity. At times you tell your people, "We must deny them a quorum." That is the business of the Senate that we are sworn to do in our activities. It may subject Senators to proceedings of the Senate, but that is our duty as we see it.

The majority leader often says that we should let the Senate work its will, and I believe that. But when the Senate has worked its will seven separate times, there is really not much more will to work. And that is what is frustrating. And to think that that would have generated the most awesome of motions—a motion to arrest fellow Senators. And it was done with

good humor and we kept our good humor. But it is an awesome motion twice made in 22 years.

My duty is to represent my party in the U.S. Senate. I am the acting leader. I take that responsibility seriously. I am very proud to have worked with the majority leader as we grappled with some pretty tough stuff—Grove City, as I brought up today; Contra aid. And we got through that without a lot of stuff and we will get through everything else without a lot of stuff, except this turkey because it cannot go anywhere. It will never be. And if it ever did go out of here to the House of Representatives, they would tear it to shreds with their bare hands, because it is the antithesis of everything they do over there—PAC's. It "ain't" quite their bag over there. But nobody is reading that.

All we know is that by the invoking of cloture we will not be able to debate. We will be through because of the skill, all legally done, of setting up this extraordinary tree.

So, that is part of it. Let that shine through so clearly—the terrible frustration of dealing with something which is not earthshaking. If the bad judgment that is going to be visited, or at least we will be referred to on this side as bad judgment for what we did in withholding a quorum, I can only think I will let the American people judge the bad judgment of calling for a motion to arrest. And we will just let the case rest out there, because this is an extraordinary debate.

We are always talking about the American people. They do not know about this issue. They have been reading Arch Cox's ads. But, other than that, when I go back home and tell them what we are trying to do, which is hopefully to see that our party is represented in maybe a majority status long after I have gone, that is worth scrapping about, regardless of what Arch Cox does. And the ultimate irony is the kind of ads Arch Cox did are the kinds of things that are not covered in the bill. So, I am not going to go on with that.

But, you know, bad judgment is not limited to this side of the aisle on this issue. And the reason it is so hectic and so bizarre and so ghastly is that we have dealt with it seven times. There is not another issue I have ever seen in 24 years of legislating where you have batted the ball over the fence seven times and threw the player out every time, and we are back here with one more shot and it is going to be worse. And that is the frustration. There is no further reality.

I am ready to go on. You do not have to have time to savor victory or anguish in defeat in this place. Now I am ready to go on, and thanks to the majority leader. He could have called two more rollcall votes tonight among our sleeping legions. They would have ripped my shorts off because they would have wondered why we did that. The majority leader saved me some pain by not having two more rollcall votes.

But we will go to 10 o'clock in the morning and we are ready to do that. But if anyone could tell me what is served by that, it escapes every possible faculty of my being.

I thank the majority leader.

Mr. BYRD. Mr. President, I am not going to debate the bill at this point. The Senator calls it a turkey. That is the way he feels about it. That is the way a lot of people feel about it. That is all right. There are a lot of bills I have voted on around here that I thought were turkeys, but that is part of the job. There is nothing mysterious about that. I just take it as it goes, vote for it or vote against it, do my best and go on to the next item.

So, I respect the Senator for opposing something he does not like. I do not carry any ill feelings about that.

But the Senator will have to get accustomed, if he has not already gotten accustomed, he will have to get accustomed to voting on measures he does not like. He may think they are turkeys and they may be brought up again and again. He will have to kind of get accustomed to that. He may think it is foolish, but some of us think otherwise. Each thinks his own way here. And I hope we can do that and do it in good humor and with good feelings.

And I never thought of asking the Senator for an apology. I simply wanted to come back and straighten out the record and be able to defend the position I took. The Senator owes me no apology. I have straightened out the record. I am confident that the record and the history of this institution, the rules and precedents, and the Constitution, support what I did.

I can assure the Senator of one thing: That I will never say anything about him in a derogatory manner on this floor unless I call him first to come to the floor. If it is anything that I would think that he would not like to read the next morning, I will send for him. And then I will say what I have to say. And if I err in saying it, I will be the first to apologize. And I hope the Senator will accord me the same courtesy.

Mr. SIMPSON. Mr. President, I do not want to be tedious, but I am going to say it one more time because it keeps coming up one more time. When my remarks were made, the gentleman from West Virginia was in the Chamber right there. I knew he was there because I saw him. As I completed my statement, he must have exited the door. And then I looked and I saw him gone and I said, "I wish the majority leader were here," and I adopt the same part of the RECORD, the end of my remarks, right now. "He is not"—and something else. I wish he was or whatever.

And so I remained. The same colloquy took place that would have taken place if I had said, "Will the Senator please give me his attention?" No one was denied that colloquy. We both had our licks, and that is the way we do our business. And that is the way I will always do my business with this gentleman. I have shared things with him that I did not even have to share from this side of the aisle during my time as acting leader. I said, "Here, here is surprise No. 1 coming your way about 2 o'clock this afternoon like a fast freight." And I will do that again. I may be naive, but I will do it.

So, let us kind of get away from this issue about me saying something as if it were secretive when I waited for the majority leader to leave the floor. We have tangled a lot worse than this without ever exiting the Chamber.

I have the greatest respect for him and admiration. He is tough, fair, and a hardy man to deal with. And I enjoy it. And I think he likes it too. And I will continue to work with him because I enjoy it and I enjoy him.

That pretty well concludes my remarks.

Mr. BYRD. Mr. President, I have already responded to the same statement earlier, and so that concludes my remarks.

I yield the floor.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I am glad to see my good friends, the distinguished Senator from West Virginia and the distinguished Senator from Wyoming, state their positions so clearly and ultimately with such goodwill.

I also have to say that if anybody should have drawn offense from the recent events on the Senate floor it is the Senator from Connecticut, because it is my understanding that some Member of this body, who we shall leave unnamed, suggested to the Sergeant at Arms that if he were to arrest the Senator from Connecticut that he should be equipped with a steel net and three tranquilizer guns. But I accept that in the humor in which it was given and, indeed, if that is the perception, let it stay that way because I do not want to be arrested by my good friend, the Sergeant at Arms, under any set of circumstances, tranquilizers or not. He is a gentleman and I think we are all proud of him in this body.

Mr. President, I have only a few minutes left before I have to go take my children to school and I want to get to the substance of the bill before us. It is not a good piece of legislation. Regardless of how it is sold to the

America public, be it under the guise of reform or the coloration of good government, it violates many historical and constitutional precepts.

Now the one aspect of this bill that I think should be knocked down at the outset is that it is a continuation of the Watergate reform of our election financing laws. I have no objection to calling it anything that its authors want to, but, as one of the surviving members of the Watergate Committee, I do not care to have an appellation given to it which indeed could not even have been given to the first reform legislation.

Why do I say that? Because it is probably a little known fact now that the Watergate Committee itself voted against the public financing of elections.

Let me state exactly what the committee said:

The commmittee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government. The select committee opposes various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution.

Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical."

The committee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns. The abuses experienced during the 1972 campaign and unearthed by the select committee were perpetrated in the absence of any effective regulation of the source, form or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971 and requiring full public disclosure of contributions of the 1972 campaign still was funded through a system of essentially unrestricted private financing. What now seems appropriate is not the abandonment of private financing but rather reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses in earlier campaigns.

Now, that was the official position of the Watergate Committee and here we are. Actually, to be completely accurate on this, 14 years later, we are totally ignoring the lessons of the greatest scandal of our times. We are totally ignoring the advice of those of us who had the responsibility of investigating that scandal and proceeding with recommendations to avoid repetition in the future.

Let me repeat what the committee said and then I can expand on it.

The committee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns. The abuses experienced during the 1972 campaign and unearthed by the select committee were perpetrated in the absence of any effective regulation of the source, form or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971 and requiring full public disclosure of contributions of the 1972 campaign still was funded through a system of essentially unrestricted private financing. What now seems appropriate is not the abandonment of private financing but rather reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses in earlier campaigns.

Why did the committee say that? Well, the committee said it, and I intend over the course of the next day to be very specific because it was, in essence, the nature of my entire minority report. The committee said it because the matter of Watergate was not so much a burglary or the illegal actions of the President as it was a Federal Government run amok; a Federal Government, not a handful of Cubans breaking into the Watergate, not the wrongful deeds of the President, but an entire Government.

When I say entire Government I mean, for example, the Internal Revenue Service, the Commerce Department, the Federal Bureau of Investigation, the Central Intelligence Agency. I go right down the whole checklist of bureaucracies in this Government. That was the ill of Watergate. And the committee was unwilling to put more power as to the election process in the hands of the Government which almost dragged the entire free election process into the gutter to stay.

I am appalled that we have so soon forgotten that lesson.

The one experience that we have is the experience of Federal financing of Presidential campaigns. This was one of the initial reforms. Take a look at what we already know about that.

Already the violations are myriad, in the sense of overspending in State after State by the candidates and disguising it and waiting until the reporting period is over and then it does not make any difference. Or those violations which are less easy to identify, whereby the only reason the candidates are in there is so they can go ahead and get the money and pay their debts. This has happened in several elections in the past since the law was enacted.

So, whether it is the experience that we gained in a general sense from malfeasance by Government during the Watergate era or whether it is the specific that occurs under the laws as they now exist, certainly Federal financing does not seem to be the way to go.

The Federal financing of Presidential campaigns is a bad law; a bad law. Its track record is miserable. And yet we are being asked here in S. 2 to go ahead and duplicate it when it comes to the election of other Federal officials.

Has anybody conceived of the mischief that can be caused by the Federal Government in the free election process when, in effect, it has its hands on the purse? There are obviously serious constitutional problems, also, involved in the legislation. I am going to get to that later. But for purposes of this morning I am going to revisit July 1974 and make the point as to why I do not think any further power should be put in the hands of the Federal Government when it comes to our election process, hoping that by reviewing the lessons that we learned from Watergate we will not repeat them here on this floor with the passage of S. 2.

These were the additional views of Senator LOWELL WEICKER to the final report of the Select Committee on Presidential Campaign Activities in the U.S. Senate in July 1974. What I tried to do in this minority view was to accentuate or focus in on the abuses of the Government as a whole, rather than the abuses of Mr. Nixon, or to give the details of the burglary at the Watergate. I started off with a chapter, "A Stillness."

In the early 1970's, several independent events took place in the United States of America. On the surface they appeared to lack a common bond.

In June 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to disregard a victim's cry for help. Over the next several years, this mood took the form of countless incidents of "looking the other way" when men and women were assaulted and murdered in full view of entire neighborhoods.

On May 4, 1970, at Kent State University in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, killing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State University in Mississippi, police who had been called in to protect firemen from violence, opened up a 28-second fusillade into and around a dormitory killing Phillip Gibbs and James Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party

which would renominate that President.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the Bill of Rights. Seventy-five percent refused, many saying it was "Communist propaganda."

In February of 1972, it was revealed that International Telephone & Telegraph had allegedly offered a campaign contribution of $400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Reelect the President were arrested inside the headquarters of the Democratic National Committee with bugging equipment and large sums of cash.

In December of 1972, having failed to get congressional approval for a reorganization of the Cabinet, the administration moved autonomously to establish three or four "super Secretaries" and to place various Executive Office employees in key sub-Cabinet posts. The obvious goal was to create a White House-directed network of decisionmaking and reporting quite different from the formal Cabinet structure which remained subject to congressional scrutiny.

In February of 1973, the White House held a Peace-with-Honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable men and women.

Some of these incidents were matters of life and death and were well publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained.

A constitutional stillness was over the land.

The next chapter was entitled, "the Uproar."

That American decency, idealism, honesty and reverence for the Constitution that some thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still shout treason when questions are asked.

A few still espouse the end as justifying the means.

A few still goggle at an American title rather than the title of American.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround?

The truth!

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

The next chapter is "Constitutional Democracy in the Era of Watergate."

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in Government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations, one of which, I might add, I just read to this body here, being against Federal financing of elections.

To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third; as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

A. THE EXECUTIVE

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. The resolution of that issue was one of the most significant actions taken.[1]

Most state constitutions prior to that time had weak executives and strong legislatures.[2] The decision to create a President, as opposed to plural administrators,[3] was a reluctant recognition of the advantages of a strong executive.

Nevertheless, the Convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties did the Convention agree to the concept of a strong President.[4]

This bit of history, indicating that the delineation of the President's office and powers preceded the creation of his position in the Constitutional scheme, is quite important. It demonstrates that executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of Article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at Article II.

The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, Article II contains two points of significance.[5] First, its opening words state: "The executive Power shall be vested in a President of the United States of America.[6] This grant of executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the presidential office and activities.[7]

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[1] Congressional Research Service, Library of Congress, "The Constitution of The United States of America" (1973), p. 429. Background on the Convention from C. Thach, "The Creation of the Presidency, 1775-1789" (Baltimore: 1923).

[2] As a result of experience with the royal governors, not only did most states have weak executives, but the Articles of Confederation (which was the agreement by which the national government was functioning at the time of the Constitutional Convention) vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was the basis of discussion, offered a weak executive, with only power to "execute the national laws" and to "enjoy the Executive rights vested in Congress." Id., ch. 4; Congressional Research Service, p. 430.

[3] It was not until the closing days of the Convention that there was any assurance the executive would not be tied to the legislature, devoid of power, or headed by plural administrators. Although the discussion about the executive opened on June 1, 1787, as late as September 7, 1787, eight days before the final Constitution was ordered printed, the Convention voted down a proposal for an executive council that would participate in the exercise of all the executive's duties. M. Farland, "The Records of the Federal Convention of 1787" (New Haven: 1937), 21 and 542.

[4] The eventual basis of Article II was the New York Constitution. On June 1, 1787, James Wilson moved that the executive should be one person. A vote on the Wilson motion was put off until the other attributes of the office had been decided. The decision resulted largely from experience with the Articles of Confederation "that harm was to be feared as much from an unfettered legislature as from an uncurbed executive and that many advantages of a reasonable strong executive could not be conferred on the legislative body." Congressional Research Service, p. 430.

[5] According to Alexander Hamilton, "The second Article of the Constitution of the United States, section first, establishes this general proposition, that 'the Executive Power shall be vested in a President of the United States of America.' That same article in a succeeding section, proceeds to delineate particular cases of executive power." 32 "Writings of George Washington," J. Fitzpatrick ed. (Washington: 1939) 430; 7 "Works of Alexander Hamilton," J.C. Hamilton ed. (New York: 1851) 76.

[6] U.S. Constitution, Article II, Section 1.

[7] The practice of expanding presidential powers has continued steadily but was irrevocably set when the "Strict constructionists" came to power in 1801 and did not curb executive power, but rather enlarged it. The modern theory of Presidential power was conceived by Hamilton, but it is interesting to

However, the initial broad authority is offset by a second significant factor, the enumeration of executive powers later in Article II.[8] These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed.

It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as a practical matter, to exercise those additional powers that fall naturally within his range of activities.[9]

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sections of the Constitution, such as the Bill of Rights, or Article I (the legislature), or Article III (the judiciary). This then is the proper context for examining facts.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate.

There is massive evidence of misuse of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

1. General powers and duties

The facts show an executive branch that approved a master intelligence plan containing proposals that were specifically identified as illegal,[10] that proposed setting up a private intelligence firm with a "black bag" or breaking and entering capability as secret investigative support for the White House,[11] that set up its own secret police,[12] that used its clandestine police force to violate the rights of American citizens,[13] that hired a private eye to spy on its enemies, including their personal lives, domestic problems, drinking habits, social activities and sexual habits,[14] that circulated an enemies list,[15] that developed plans to use the available federal machinery to screw our political enemies,[16] that knew of an illegal break-in connected with the Ellsberg case and concealed that fact rather than report it to appropriate authorities,[17] that used a presidential increase in milk support prices to get $5,000 from the milk producers to pay for the Ellsberg break-in,[18] that recruited persons for that break-in on the false pretense of national security,[19] that offered the presiding judge in the Ellsberg trial the FBI Directorship at a clandestine meeting in the midst of the trial,[20] that ordered a warrantless wiretap on a news columnist's telephone,[21] that wiretapped 17 newsmen and government officials in an operation that was outside proper investigative channels,[22] that suggested firebombing the Brookings Institute,[23] that set up an Intelligence Evaluation Committee outside the legitimate intelligence community to disseminate information that should have been restricted to individual agencies,[24] that used the Secret Service to wiretap the President's brother,[25] that kept $350,000 in left-over 1968 campaign funds in a safe in the Chief of Staff's office,[26] that used most of those funds as "hush money" for the Watergate burglars,[27] that approved a large contribution from the milk producers association after being told it was meant to gain access to and favors from the White House,[28] that received and passed on information about an IRS audit of one of the President's friends,[29] that arranged for a tax attorney for the friend.[30]

That contacted the IRS as well as the Justice Department in a number of other tax cases involving friends of the President,[31] that planned and possibly carried out a break-in at the office of a Las Vegas publisher,[32] that suggested a break-in at the apartment of the man who attempted to assassinate Governor Wallace,[33] that contemplated a break-in at the Potomac Associates offices,[34] that tried to rewrite history by making up bogus State Department cables to falsely connect the Kennedy Administration with the assassination of President Diem,[35] that attempted to get reporter William Lambert to use the phony cables in a story,[36] that tried to plant false stories connecting the President's opponent with communist money and the crimes alleged in the Ellsberg case,[37] that installed an elaborate system of taping conversations between the President and his staff or visitors,[38] that told federal investigators to stay out of the Ellsberg matter,[39] that undertook a clandestine operation to hide a key witness in the ITT case in a Denver hospital where she was interrogated by Howard Hunt in disguise,[40] that authorized and funded from within the White House a dirty tricks operation including scurrilous literature, late night telephone campaigns and advertising designed to offend local interests, seemingly sponsored by Democratic candidates, and physical disruptions directed against Presidential opponents,[41] that planted spies, hecklers, and pickets in the Muskie and Humphrey campaigns,[42] that participated in discussions of a campaign against Democrats to include prostitutes, mugging, kidnapping, bugging, and burglary,[43] that pressed for adoption of Liddy's Watergate plan,[44] that was told of the authorization and budget for Liddy's plan,[45] that believed

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note his qualification "that the executive power of the nation is vested in the President; subject only to the exceptions and qualifications, which are expressed in the instrument." 7 "Works of Alexander Hamilton," 80-81; see Congressional Research Service, 433 and 437.

[8] U.S. Constitution, Article II, sections 2-4.

[9] See note 7 supra.

[10] See Vol. 3, Ex. 35, p. 1319. This is a plan submitted by Tom Charles Houston to the President and approved in July, 1970. Presidential Statements, May 22, 1973. Part D., entitled "Surreptitious Entry," reads: "Use of this technique is clearly illegal: it amounts to burglary." Id., at 1321.

[11] Operation Sandwedge, drawn up by John Caulfield in late 1971, to infiltrate campaign organizations, with a "Black bag" capability, "surveillance of Democratic primaries," and "derogatory information investigative capability, world-wide." See. Ex. and pp. —, Campaign Practices, supra.

[12] See, the Intelligence Community, infra. (discussion of the establishment and functions of the secret so-called Plumbers unit in the White House).

[13] On June 21, 1974, Mr. Charles Colson, was sentenced to one to three years in jail for, among other things, activities of the Plumbers "to influence, obstruct, and impede the conduct and outcome of the criminal prosecution of Daniel Ellsberg."

[14] See, the list of investigations by Anthony Ulasewicz, The Intelligence Community, infra; see also, Ulasewicz testimony, Vol. 6, pp. 2219-2277.

[15] See, Vol. 4, Exhibits 44, 48-65.

[16] Vol. 4, Ex. 48, p. 1689.

[17] When the prosecutors finally learned of the break-in 18 months after it occurred, they were told by the President, "you stay out of that," even though it was a crime for which at least one defendant has been convicted. Vol. 9, p. 3631.

[18] Ellsberg Break-in Grand Jury Proceedings, 652-656.

[19] Testimony of Bernard Barker, Vol. 1, p. 358.

[20] Testimony of John Ehrlichman, Vol. 6, p. 2617-2619.

[21] At Ehrlichman's instructions, Caulfield had John Regan tap columnist Joseph Kraft's home telephone. John Caulfield Executive Session, March 16, 1974.

[22] See, testimony of Robert Mardian, Vol. 4, pp. 2392-2393; John Ehrlichman, Vol. 4, p. 2529; and John Dean, Vol. 3, p. 920.

[23] John Caulfield Executive Session, March 23, 1974; testimony of John Dean, Vol. 3, p. 920.

[24] Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, they were called upon to evaluate domestic intelligence-gathering by other agencies, when the Intelligence Evaluation Committee was set up. Testimony of John Dean, Vol. 4, p. 1457.

[25] In a Press Conference on November 17, 1973, the President stated: "The Secret Service did maintain a surveillance. They did so for security reasons, and I will not go beyond that. They were very good reasons, and my brother was aware of it."

[26] Testimony of H.R. Haldeman, Vol. 7, p. 2879; Gordon Strachan, Vol. 6, p. 2442, 2461.

[27] Testimony of Fred LaRue, Vol. 6, p. 2343.

[28] Mr. Kalmbach testified that he reported the original milk producers' contribution, and their request in return for 90 percent parity, a Presidential address at their Convention, and a Presidential audience, to Messrs. Ehrlichman, Flanigan, Gleason, and Dent. Herbert Kalmbach, Executive Session.

[29] Gen. Alexander Haig, White House Chief of Staff, was called by William Simon of the Treasury Department and told that Mr. Rebozo was to be audited. Gen. Haig met with White House attorneys on the matter, resulting in a decision to tell the President and volunteer to use the White House attorneys to find a tax lawyer for Mr. Rebozo. Gen. Alexander Haig, Executive Session.

[30] Id.

[31] This help was extended to Dr. Kenneth Riland. Testimony of John Dean, Vol. 4, p. 1530, 1559. It also went to the Rev. Billy Graham and actor John Wayne. Id., at 1529-1530.

[32] Testimony of Howard Hunt, Vol. 9, p. 3687. See also, Transcripts of Presidential Conversations.

[33] Testimony of Howard Hunt, Executive Session, July 25, 1973, p. 129-133.

[34] A White House memo, dated July 6, 1971, from John Caufield to John Dean, stated: "Building appears to have good security with guard present in lobby during day and evening hours. However, a penetration is deemed possible if required."

[35] Testimony of Howard Hunt, Vol. 9, p. 3732.

[36] *Id.*, at 3672.

[37] Vol. 10, Ex. 194, p. 4259 (A memo from Pat Buchanan recommending, "The Ellsberg Connection, tying McGovern to him and his crime—as soon as the indictment come down.") A Dean to Haldeman memo stated, "We need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern. . . ." See, Vol. 8, p. 3171.

[38] Testimony of Alexander Butterfield, Vol. 5, p. 2074.

[39] Testimony of Henry Petersen, Vol. 9, p. 3631.

[40] Testimony of Robert Mardian, Vol. 6, p. 2359; Testimony of Howard Hunt, Vol. 9, p. 3752-53.

[41] See, the Electoral Process, infra (description of the Segretti operation).

[42] See, Executive Session, Herbert Porter, April 2, 1973 (the activities of Sedan Chair I and Sedan Chair II).

[43] Testimony of John Mitchell, Vol. 5, p. 1610.

[44] Testimony of Jeb Magruder, Vol. 2, p. 835. (phone call by Mr. Colson to Mr. Magruder, to "get on the stick and get the Liddy project approved so we can get the information from O'Brien.")

[45] For example, on March 30, 1972, a few days after the Liddy plan was allegedly approved, a memo from Strachan to Haldeman reported, "Magruder reports that 1701 (CPR) now has a sophisticated political intelligence gathering system with a budget of 300." Testimony of Gordon Strachan, Vol. 6, p. 2441. An April 4, 1972, talking paper for a meeting between Mitchell and Haldeman included the intelligence plan and its $300,000 budget. Id., at 2454.

it had received transcripts of illegal wiretaps and never reported that crime,[46] that was warned of the planned break-in at the Watergate and did nothing to stop it,[47] that knew the full scope of Liddy's activities shortly after the Watergate arrests and kept those facts from proper authorities,[48] that shredded Watergate evidence in the Chief of Staff's files,[49] that tried to use one of its executive branch agencies as a "cover" for the Watergate operation,[50] that was the scene of meetings at which high officials plotted to use the power and influence of the presidency to cover up crimes and obstruct justice,[51] that saw advisors invoke the power of the presidency to use an FBI Director in ways that would eventually cause him to resign.[52]

That used the President's fundraising powers to collect illegal corporate contributions,[53] to raise funds to finance a crime,[54] and to collect bribes for a criminal case,[55] that discussed using the President's clemency prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a "third rate burglary,"[56] that made offers of clemency for improper purposes,[57] that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about Watergate,[58] that discussed, in the Oval Office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits,[59] that purposely lied to the FBI and a federal grand jury,[60] that encouraged campaign officials to commit perjury and plead the Fifth Amendment to obstruct justice,[61] that used the President's personal attorney and White House staff to pay criminal "hush" money,[62] and to pay for a private eye operating out of the White House,[63] that used its influence to get raw FBI files for improper purposes,[64] that prevailed upon the FBI not to interview certain witnesses,[65] that used patriotic concern for the presidency to pressure defendants to plead guilty in a criminal case,[66] that used its influence to get special treatment for high officials before a federal grand jury,[67] that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered the story.[68]

That noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique," [69] that obstructed Congressional investigations of Watergate and related matters,[70] that filed Watergate counter suits for the distorted purpose of using subpoena powers to delve into the financial and sexual activities of political opponents,[71] that made numerous misleading or false statements about Watergate to the American people,[72] that failed to promptly inform proper authorities about knowledge of crimes involving White House officials,[73] that forced the resignation of a special prosecutor, Attorney General, and Assistant Attorney General when their Watergate prosecution took an independent position,[74] that suggested using the Attorney General's powers to keep a Republican opponent off the primary ballot in Florida,[75] that used the executive's authority over the media's regulatory agencies to intimidate the media,[76] that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, and an anti-trust action, all in response to a newspaper article about one of the President's friends,[77] that tried to punish foundations with views different than White House policy by pressuring the IRS to review their tax exempt status,[78]

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[46] Mr. Strachan testified, "I did not tell Mr. Dean that I had, in fact, destroyed wiretap logs, because I was not then sure what they were, I only had suspicions." Testimony of Gordon Strachan, Vol. 6, p. 2442. Mr. Strachan had also had access to all the Watergate wiretap transcripts. Testimony of Jeb Magruder, Vol. 2, p. 827.

[47] Mr. Strachan, according to Mr. Magruder, was as well briefed, on the evening of June 16, 1972, on the intelligence operation (including the plan for a second break-in on June 17) as anybody at the Committee to Re-Elect. Testimony of Jeb Magruder, Vol. 2, p. 827.

[48] The White House counsel, among others, was fully briefed by Liddy himself three days after the break-in, and given the full story of Liddy's Plumbers' activities as well. Testimony of John Dean, Vol. 3, p. 933.

[49] Testimony of Gordon Strachan, Vol. 6, p. 2458.

[50] Both Mr. Helms and Gen. Walters of the CIA testified that at a meeting on June 23, 1972, with Mr. Haldeman and Mr. Ehrlichman, they were instructed to use the CIA to interfere with the FBI investigation of Watergate. Testimony of Richard Helms, Vol. 8, p. 3238; testimony of General Vernon Walters, Vol. 9, p. 3405.

[51] As soon as Mr. Dean returned to Washington after the break-in, he began meeting with White House officials, such as his meetings on June 19, 1972, with Messrs. Ehrlichman, Colson, and others to discuss how to handle Liddy and the contents of Hunt's safe. Testimony of John Dean, Vol. 3, p. 934.

[52] Patrick Gray testified that he took the Hunt files and destroyed them because the order came from "the counsel to the President of the United States issued in the presence of one of the two top assistants to the President of the United States." Testimony of Patrick Gray, Vol. 9, p. 3467.

[53] See, testimony of eight corporate executives convicted of illegal corporate contributions, Nov. 13–15, 1973. Vol. 13.

[54] Not only was the Ellsberg break-in financed by milk producers' money (see, note 18, supra), but the Watergate break-in was financed by money from the Committee to Re-Elect. Testimony of Hugh Sloan, Vol. 2, p. 539; testimony of Maruice Stans, Vol. 2, p. 795.

[55] Mr. Kalmbach was asked to raise funds for the Watergate burglars. Testimony of John Dean, Vol. 3, p. 950; confirmed by Transcrips of Presidential Conversations, April 14, 1973, p. 494.

[56] Presidential Statement of August 15, 1973, p.3; testimony of John Ehrlichman, Vol. 7, p. 2848–2849.

[57] On at least three occasions Watergate defendant James McCord received offers of executive clemency if he would remain silent and plead guilty. Testimony of James McCord, Vol. 1, pp. 131, 132, 135, 139–141.

[58] Testimony of John Dean, Vol. 3, p. 955.

[59] Testimony of John Dean, Vol. 3, p. 958. "He (Judge Ritchie) has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer that he thought Maury (Maurice Stans) ought to file a liber action." Transcrips of Presidential Conversations, September 15, 1972, p. 60.

[60] Herbert L. Porter pleaded guilty, on January 28, 1974, to one count of making false statements to FBI agents. Gordon Strachan testified that he was expressly asked to do something he knew was improper related to his grand jury testimony of April, 1973. Testimony of Gordon Strachan, Vol. 6, p. 2443. See, also testimony of Jeb Stuart Magruder, Vol. 2, pp. 801, 802, 804, 831–832.

[61] Dean attempted to get Sloan's lawyers to have Sloan take the Fifth Amendment. Testimony of Hugh Sloan, Vol. 2, pp. 585, 586. Herbert Porter testified that he was asked to perjure himself by Magruder concerning the amount given Liddy—asked to say he gave $100,000 to pay surrogates. Porter, subsequently, perjured himself to the grand jury and in the trial. Testimony of Herbert L. Porter, Vol. 2, pp. 635–637.

[62] Testimony of John Dean, Vol. 3, p. 950. Kalmbach recollected that Dean stressed secrecy with respect to raising funds for the defendants, that he made a very strong point that there was absolute secrecy required, confidentiality, indicating that if this became known, it might jeopardize the campaign and cause misinterpretation. Testimony of Herbert Kalmbach, Vol. 5, p. 2098.

[63] Mr. Caulfield worker on his intelligence projects with Mr. Ehrlichman and Mr. Kalmbach. He hired Mr. Ulasewicz on July 9, 1969, who was paid on a monthly basis through the Kalmbach law firm. Testimony of John Caulfield, Vol. 1, p. 251.

[64] Testimony of John Dean, Vol. 3, pp. 944–945. Testimony of L. Patrick Gray, Vol. 9, p. 3479.

[65] At the request of Mr. Dean, Mr. Gray held up FBI interviews with such valuable witnesses as Mr. Dahlber, Mr. Ogarrio and Kathleen Chenow. On June 28, Dean requested Gray to hold up an interview with Kathleen Chenow on grounds of national security. Testimony of L. Patrick Gray, Vol. 9, p. 3455.

[66] Testimony of Bernard L. Barker, Vol. 1, p. 358.

[67] Petersen testified that he received a telephone call from Ehrlichman asking that Mr. Stans be excused from going to the grand jury and telling Petersen to stop harassing Stans. Testimony of Henry Petersen, Vol. 9, p. 3618.

[68] Testimony of Clark MacGregor, Vol. 12, p. 5019.

[69] Memorandum of July 8, 1971, from Patrick L. Buchanan to John Ehrlichman.

[70] Mr. Mitchell testified that there were many discussions of preventing the House Banking and Currency Committee hearings from getting off the ground, including possible use of assistance from the Justice Department. Testimony of John Mitchell, Vol. 5, p. 1897. The Lacosta meetings, which discussed the use of executive privilege to prevent testimony of people from the White House, could well be concluded to evidence an intention to prevent the facts from becoming known, according to Mr. Dean. Testimony of John Dean, Vol. 4, p. 1460.

[71] Testimony of John Dean, Vol. 3, p. 957.

[72] For example, a meeting on October 15, 1972, at the White House, with Ehrlichman, Ziegler, Buchanan, Moore, Chapin, and Dean was held to prepare a press response to Segretti stories. It was decided to attack and deny the stories, even though an intense investigation within the White House had already established the basic truth of the stories. The same denial was issued again in succeeding months. Testimony of John Dean, Vol. 3 pp. 1202, 1206, and 1209; notes of the meetings, Vol. 3, p. 1200.

[73] Aside from the coverup in general, the President claims to have learned of crimes on March 21, 1973, but did not tell the prosecutors about this evidence until they came to him on April 15, 1973. Testimony of Richard Kleindienst, Vol. 9, pp. 3579–3580; testimony of Henry Petersen, Vol. 9, p. 3628.

[74] On October 20, 1973, Attorney General Richardson and Assistant Attorney General Ruckelshaus resigned in response to the President's demand that they fire Special Prosecutor Cox, who wanted to appeal a court decision involving Watergate evidence to the Supreme Court. See also, Executive Session of General Alexander Haig.

[75] Memo to the Attorney General from Mr. Magruder, August 11, 1971: "Pat Buchanan suggested that maybe we could have the Florida State Chairman do whatever he can under this law to keep McCloskey (Rep. McCloskey, R-Calif.) off the ballot." Vol. 10, Ex. 177, p. 4194.

[76] Memo from Charles Colson to H.R. Haldeman, September 25, 1970, recommending that he "pursue with Dean Burch the possibility of an interpretive ruling by the FCC . . . this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks. . . ."

[77] When the newspaper Newsday decided to run an in-depth article on Mr. Rebozo, the reporter writing the story was audited at White House request, an FBI agent investigated the newspaper's offices, an anti-trust suit was recommended, and the Secret Service investigated the reporters activities while they were writing the story. Testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974 (Exhibit 7).

[78] Memo to the President from Patrick Buchanan, March 3, 1970. Vol. 10, p. 4114.

that set up a program to insure that government contracts, grants, and loans would, as a matter of government policy, be political rewards,[79] that treated the Presidential pardon as a political tool,[80] that used its power over the tax collection agency to gather intelligence on and harass political opponents,[81] that issued instructions to hire a shaggy person to sit in front of the White House with a McGovern button, and counter demonstrators at the funeral of J. Edgar Hoover,[82] that infiltrated a Quaker vigil in front of the White House,[83] that used the agency that is supposed to guard the President to spy on the President's political opponent,[84] that ordered 24 hour surveillance of a political opponent.[85]

That used the Departments to dredge up potentially embarrassing information on presidential contenders, and then leaked it to the press,[86] that used White House influence to obtain CIA equipment for the Ellsberg break-in,[87] that used its entrustment with our national security to convince four Cubans to burglarize a political party,[88] that ordered an FBI investigation of an unfriendly newsman to harass him,[89] that proposed leaking confidential FBI files to embarrass the producer of a satirical movie,[90] that used its control of important Watergate evidence and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition,[91] that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands,[92] that participated actively and formally in a campaign organization while drawing White House staff salaries,[93] that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.[94]

That, all of that, violated the consent of Executive power in article II of the Constitution. Excerpts from the record only, selected examples. It certainly is not what our Founding Fathers had in mind when they envisaged the Presidency.

I might add for every one of the statements that I made here there is a specific footnote. This is not just a generality. I have not read the footnotes here this evening but they will be part of the committee report.

I think you can see that in what was quoted in that chapter. I am now going to move on to other chapters. It was not just one man. It was an entire Federal Government. It was an entire Federal Government that was being misused in the political process. And with that lesson in hand, you now want to give to the Federal Government through S. 2 even more power in that process.

What a field day it would have been for this bunch had we had public financing of Federal campaigns. Not only would they have had the IRS, the CIA, the FBI, the Commerce Department, and everybody else, but they would have been able to use the financing tool against their opponents.

What in Heaven's name is it that has us disregard these lessons or not take to heart the admonition of the Watergate Committee, which on the basis of the experience that we had as investigators and on the history of what had transpired said no Federal financing, no public financing? Additional disclosure yes, and then when it came to the matter as to how much, we were rather loath to go ahead and start invading people's constitutional rights as to what they can or cannot do within the selection process.

Going on to the so-called "Enumerated Powers and Duties of the President's Office," which are set forth beginning with section 2 of article II:

2. ENUMERATED POWERS AND DUTIES

The so-called enumerated powers and duties of the President's office are set forth beginning with Section 2 of Article II. That Section grants the President direct power over Cabinet officers,[95] and much testimony before this Committee demonstrated how those officers were used on behalf of the President's office.

An Attorney General, for a significant period of time, ran the President's re-election campaign while still in office at the Justice Department.[96] His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States," [97] even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong.[98]

I might add, who is in charge of enforcing our Federal laws, S. 2 included, should it become law but the Attorney General?

Memos from CRP, such as one entitled "Grantsmanship", suggesting an effective method of "insuring that political considerations" be used in Federal programs,[99] were sent to the Attorney General from May 1, 1971, onward.[100] At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida.[101] That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnapping.[102]

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation.[103] He was then asked to provide raw FBI Watergate files, perhaps improperly, to the White House. That same Attorney General was later used as a secret contact with this Committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affairs.[104] He eventually became the first Attorney General in history convicted of a crime, for his testimony about the ITT matter.[105]

A third Attorney General was forced to resign his office when he backed the Special Prosecutor's procedure for obtaining Watergate evidence from the White House.[106]

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House,[107] and was later told by the President not to investigate the Ellsberg break-in.[108] Another Assistant Attorney General was forced to resign when he backed the Special Prosecutor's decisions in the Watergate case.[109] Still another Assistant Attorney

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[79] Memo from Fred Malek to H.R. Haldeman, March 17, 1972, entitled "Increasing the Responsiveness of the Executive Branch."

[80] For example, a request that a prominent Jewish figure in Florida be pardoned for political benefit. In a memo to John Dean, Charles Colson recommends, "If there is anything we can do properly, we should . . . this has to be handled with extreme care." Testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974. The pardon was granted and a $30,000 contribution followed. Interview with Calvin Kovens, October 25, 1973.

[81] See, Vol. 4, Ex. 44, p. 1682, 1694, 1695.

[82] Testimony of Robert Reisner, Vol. 2, pp. 500, 512.

[83] Interview with Jeb Magruder, August 8, 1973.

[84] White House memo from Steve Karalekas to Charles Colson, August 16, 1972, referring to the activities of Agent Bolton. See also, testimony of John Dean. Vol. 3, pp. 923, 1071.

[85] "It was my understanding, based on my discussion with John Dean, that there was to be a 24-hour tail on Senator Kennedy." Testimony of Gordon Strachan, Vol. 6, p. 2492.

[86] See, memo from Fred Malek to H.R. Haldeman, entitled "Increasing the Responsiveness of the Executive Branch, dated March 17, 1972.

[87] On July 7, 1971, John Ehrlichman called General Cushman, Deputy Director of the CIA, to arrange CIA assistance to Howard Hunt for disguise purposes. Hunt told Cushman that he (Hunt) had been charged with a "sensitive mission" by the White House to "interview a person whose ideology he was not certain of." Testimony of General Robert Cushman, Jr., Vol. 8, pp. 3290-92.

[88] Testimony of Bernard Barker, Vol. 1, p. 358.

[89] Mr. Haldeman ordered an investigation of newsman Daniel Schorr. See Vol. 4, p. 1490.

[90] Memo from John Caulfied to John Dean, dated June 25, 1971, subject: Emile de Antonio, producer of "Millhouse;" New Yorker Films, Inc.; and Daniel Talbot, film distributor. "I recommend that it is time to move on the above firm and individuals, as follows: (A) Release of de Antonio's FBI derogatory background to friendly media. (B) discreet IRS audits of New Yorker Films, Inc., de Antonio and Talbot."

[91] Mr. Haldeman testified that he had access to various tapes of presidential conversations. (See Vol. 8, pp. 3050-51); compare with testimony of John Dean, Vol. 4, p. 1503.

[92] See Vol. 4, Exhibit 44, p. 1682.

[93] Testimony of Robert Odle: "those people who were at the White House had influence over the (Committee for the Re-Election of the President), they gave it direction, they assisted it." See Vol. 1, p. 23.

[94] See, the Party Process, supra.

[95] U.S. Constitution, Article II, sec. 2.

[96] Mr. Mitchell testified that he "had frequent meeting with individuals (from CRP) dealing with matters of policy," before he resigned as Attorney General. Testimony of John Mitchell, Vol. 5, p. 1653.

[97] Testimony of John Mitchell, Vol. 5, p. 1859.

[98] Id.

[99] Vol. 1, Ex. 1, p. 449.

[100] See, testimony of Robert C. Odle, Vol. 1, p. 40-41.

[101] See, note 75 supra.

[102] Testimony of John Mitchell, Vol. 5, p. 1610.

[103] Testimony of John Dean, Vol. 3, p. 936.

[104] See, testimony of Richard G. Kliendienst, Vol. 9, p. 3597.

[105] Richard G. Kliendienst pleaded guilty, on May 16, 1974, to one count of refusing to testify about ITT; sentenced June 7, 1974 to one month unsupervised probation.

[106] On October 20, 1973, Attorney General Richardson resigned in a dispute with the President over the firing of Special Prosecutor, Archibald Cox.

[107] Testimony of John Dean, Vol. 3, p. 944-945.

[108] Testimony of Henry Petersen, Vol. 9, p. 3631.

[109] On October 20, 1973, Assistant Attorney General William Ruckelshaus resigned in response to

General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House.[110]

Is the point starting to come through? Take the last one there.

Still another assistant on;

Still another Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House.

And we want under S. 2 more power to go to the Federal Government in this reelection process? This is the one check that we have as a people on these types of things not happening is that our vote and our resources and our energies are not restricted in any way by any entity of Government.

Three Attorney Generals and three Assistant Attorney Generals. And all this was done on behalf of the presidency, which has a Constitutional responsibility to "take Care that the Laws be faithfully executed." [111]

And I bring that back into focus because we say around here of course obviously we are all obligated so is the President to see that the laws are faithfully executed.

No. No. That is not the way it happened and that is not the way it can happen.

Things can go wrong, very wrong but as long as the last repository of power is in the hands of the people, then the whole system is saved from collapse.

A Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's re-election, including, as it turns out, a number of illegal corporate contributions.[112] A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at least $10,000 in cash for his personal use.

Now we have both the Commerce Department and the Treasury Department getting into the act.

He later aided them in tax and antitrust matters at a time when a large contribution to the President from the milk producers was being arranged.[113]

The Commissioner of the Internal Revenue Service was criticized because "practically every effort to proceed in sensitive areas is met with resistance, delay and the threat of derogatory exposure."[114] The Director of the CIA, according to his own testimony and that of his assistant, was called to the White House and asked to use the CIA to cover up Watergate.[115] The Acting Director of the FBI was brought to the White House and given material from the safe of one of the Watergate burglars, to keep it hidden, an act which resulted in his eventual resignation.[116]

Now, Mr. President, my time has expired but I will be back on the floor if I can. I hope the distinguished acting minority leader will allow me to continue to refresh the memory of this Nation as to what transpired which caused the Watergate Committee to recommend against what is being proposed to this body in the year 1988.

The original reform was not Watergate reform and neither is this reform anything associated with experience of the past.

It is the little public relations dabbling is what it is and having spent a good 2 to 3 years of my life in the consequences of others dabbling in the Federal system I do not think I care to expand the list of dabblers or those who can be influenced so as to pervert our free election system.

Is it not ironic that we sit here debating a reform of the reform and that only a few years after the reform was enacted.

In any event I repeat as to why I feel so deeply about this matter. It is that I have seen firsthand a government, not a man, but a government run amok in the perversion of our free election system, and I am not about ready to give one iota more of power to government when it comes to that election process and neither should the American people do it.

The distinguished acting minority leader has well described the deep feelings that run on this side. I am sure that others have different reasons. But, believe me, I speak from the heart and from a good portion of my career on this matter.

If you want to call this bill—I do not know—I am not the one that devised it, but call it anything that you will, but please at least let us have the facts and the memory of Watergate stay intact. This is not Watergate reform nor was the legislation that it intends to reform. It flies directly in the face of that experience.

And for that reason I will use any parliamentary means to go ahead and oppose it and hope that it is not passed and I absolutely do not understand how a political party would want to be associated in the majority any way in a move such as this, nor, I might add, all the editorials that glowingly report on this legislation. Has the media forgotten our history? For anybody that wants I will be glad to send them a copy of this report. Every single one of these abuses by government is documented, footnoted, so it is not a question of my imagination or speculation. It happened. And it happened only a short time ago in terms of the history of this Nation.

Whoever said it, those who forget history are to be condemned by it and if we ever had a classic example of that it is here today.

So I would hope that we reject this legislation. I might add also I have to also lend my voice to the distinguished Senator from Wyoming. I do not think I could be wrong. I have been here now 18 years. I do not recall that we have had seven cloture votes on one issue. I certainly remember three and four and five. I do not think I remember seven. Anyway, it is going to be eight by Friday. I certainly do not remember eight. If it has happened, maybe it has happened only once before. But certainly also on matters of great principle and substance this little piece of trash that is dragged out here in the name of reform, you know reform is not something that any of us have a monopoly on.

There are good, decent, honest people on that side of the aisle as well as on this side of the aisle. There are lots of things that need to be reformed in this election process. If you want to really grab onto this chunk of meat, get into the business of negative advertising. It is a disgrace to the Nation, an absolute disgrace. All you have done in negative advertising is sort of legalize the dirty tricks of Watergate.

There is something we can really sink our teeth into.

But this dabbling could have a disastrous effect in some future election as to if the Federal Government turns itself on a candidate or candidates plural a la Watergate.

I am bound and determined to see as long as my legs are underneath me that that will not happen.

I yield the floor in the hopes—not only the hopes but I am sure there will be time when I will continue this recitation of fact which brought the Watergate Committee to the conclusion—and I repeat again the committee recommendations against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

That was the decision of the committee. That should be the decision of this Senate.

Mr. SIMPSON. Mr. President, I want to thank my colleague from Connecticut, LOWELL WEICKER, for the very powerful statement. Indeed, he obviously feels deeply about this issue, and I think that all of us that know him that have come to know him that has been my great pleasure for 9

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the President's request to fire Special Prosecutor Archibald Cox.

[110] With the approval of the Attorney General John Mitchell, Mr. McCord testified that he received information, on a daily basis, from the Internal Security Division of the Justice Department, which information included FBI data and data on individuals of both a political and non-political nature. Testimony of James McCord, Vol. 1, pp. 178–183.

[111] U.S. Const., Act. II, sec. 3.

[112] Testimony of Maurice H. Stans, Vol. 2, p. 734.

[113] See, Milk Fund Investigation, supra.

[114] Transcripts of Presidential Conversations, Sept. 15, 1972.

[115] Testimony of Richard Helms, Vol. 8, p. 3238. Testimony of Lt. Gen. Vernon Walters, Vol. 9, p. 3405.

[116] Testimony of L. Patrick Gray, Vol. 9, p. 3467. Testimony of John Ehrlichman, Vol. 7, p. 2674.

years, this remarkable compassionate gentle giant of a man who can be tough and fair and firm. You want to listen to what he is saying because I do not know of many Members who have the deep social conscience that he does. It is a part of him. It abides in him and he is a very fair man.

What he is saying in his depth of feeling is worth reading. When you hear him say that he is ready to scrap, you want to pay attention because I know that when he says that, he means that. And he will be right back in the trench with us as get past the hour of 10 o'clock into all sorts of new extraordinary motions and dial a prayer and everything else when we get to that point, and he will be there and he is fun to have on your side.

I want to thank him because it was marvelous and I listened to it and anyone who knows the Senator from Connecticut and knows an issue knows that they should be listened to.

And there is a fairness to him which runs as a thread.

So, I thank him very much. I appreciate his participation in these efforts.

Now, I shall continue into the evening, no, into the morning. It falls upon me since I have been knighted with the task of acting minority leader to do a little more than I had anticipated when that befell me. And it always somewhat reminds me of, you know, when you get elected president of the rotary club or the chamber of commerce, or whatever, in a little town they say "We will help you, Al," and I see at this hour at 4:30 there are few people here unless the Senator from Colorado is going to join here in this remarkable effort. If so I would certainly appreciate that. We are under unanimous-consent agreement of various motions and so on.

Does the Senator from Colorado wish to dabble as the Senator from Connecticut called it?

Mr. WIRTH. If the Senator is yielding the floor, the Senator from Colorado would appreciate being recognized.

Mr. SIMPSON. Mr. President, let me do that. There are now three of us here at this hour, the occupant of the chair and the Senator from Colorado, and there are no motions that can be made, no moves to suggest the absence of a quorum. And, whatever the Senator from Colorado would have, may I inquire is there a time that the Senator from Colorado would intend to speak? We have others coming to the floor and I can spare them the anguish of the morning hours if you wished to do that, I inquire of the Senator from Colorado.

Mr. WIRTH. If the Senator from Wyoming yields the floor, when he does, the Senator from Colorado will seek recognition for only a short period of time just for the purposes of making sure the record is clear on some of the things that were said earlier.

Mr. SIMPSON. Sure.

Mr. WIRTH. I think it is appropriate that the record be made clear. But it is your filibuster, not ours, and the Senator from Colorado will only be talking for a few minutes for the purpose of clarifying the record on behalf of the majority.

Mr. SIMPSON. Let us go forward with that, Mr. President. We can have a colloquy. If there is an explanation coming from there, we can have a clarification coming from here.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I just wanted to make three very short points. First, the distinguished Senator from Connecticut has spoken eloquently of his very distinguished role in the Watergate Committee's investigation. The Senator from Connecticut played a notable role in that wonderful moment of the Congress exercising its responsibility.

I am sure that the Senator from Connecticut had no intention whatsoever of implying that the sponsors of S. 2 in any way, shape, or form are to be equated with the perpetrators of Watergate.

There were a number of people in the Nixon administration who were transgressing the law in all kinds of ways, and were abusing the privileges of public office, and the Senator from Connecticut has laid that out in a very understandable manner.

Many of us who are sponsors of this legislation were closely watching the events of Watergate unfold, as Members of Congress or from other positions, and understood those problems. Many of us were involved in securing enactment of the campaign finance reforms of the mid-1970's in order to prevent the replication of some of the abuses we witnessed. For many of us who support S. 2, the desire to eliminate some similar problems in congressional campaigns is a key determinant of our support. Above all, we certainly do not want to leave any impression that being a sponsor of S. 2 or an advocate of S. 2 suggests in any way that we approved or condoned what the perpetrators of Watergate were doing, and I am entirely confident the distinguished Senator from Connecticut meant nothing of the sort. That was just the first point for clarification that I wanted to make.

The second point I wish to address concerns the distinguished Senator's comments about spending limits in Presidential campaigns. I think one of the strongest conclusions in the minds of the American people that emerged from the unfolding of the Watergate episode was the conclusion that massive amounts of money were being spent in Presidential campaigns, and that there should be limits placed on the amounts of money being spent in those campaigns. I believe history and objective statistics show conclusively that the existing law relating to Presidential campaigns, which was enacted following the Watergate revelations, has been extremely successful in that way.

Let me cite a few numbers. In 1972, when there were no spending limits, President Nixon financially overwhelmed his opponent by spending some $62 million, a great proportion of which came from a handful of contributors. Adjusted for inflation, the comparable amount in 1984 would have been more than $150 million. There is every reason to believe that at least $150 million would have been spent in 1984 had there been no limit established before that election. However, with spending limits and public financing in place in 1984, President Reagan spent $68 million, or less than half of what President Nixon spent in real dollars.

So we see that the campaign finance law, which established voluntary spending limits in exchange for partial public financing, has effectively limited expenditures in Presidential campaigns. President Reagan accepted the spending limits and public financing in his 1976, 1980, and 1984 campaigns, as have 34 of 35 candidates for the Presidency since the law went into effect. What we have seen is that the spending limits that have been put into effect for Presidential campaigns indeed have had a salutary effect. I believe strongly that most people would agree that having less money rather than more spent on Presidential campaigns has been good for the process.

Unfortunately, as has been pointed out in the debate over and over and over again, we have not seen any kind of spending limits in congressional campaigns. The amount of money in congressional campaigns has increased almost 500 percent, 450 percent for House races, 500 percent for Senate races in this same general timeframe—from 1972 through 1982—during which inflation only doubled prices. We advocates of S. 2 firmly believe we ought to put a ceiling on House and Senate campaign expenditures, and believe doing so would be as beneficial and successful as was placing limits on Presidential campaign costs.

Finally, the suggestion was made in the distinguished Senator's remarks that enactment of S. 2 would shunt an enormous amount of public money, tax dollars, into Senate campaigns. That simply is not the case, and the facts of the legislation in front of us will bear that out.

S. 2 in its current form is primarily a bill to establish voluntary spending limits and limits on political action committees contributions to cam-

paigns. It does not authorize tremendous outlays of public funds for congressional campaigns.

S. 2 provides for public funding in only three cases: First, candidates who agree to spending limits will be entitled to reduced postage rates, with public funds used to make up the difference. The cost of these reduced postal rates will be more than offset by the S. 2 provision eliminating the existing reduced postal rates for political parties. In other words, the net effect of these two provisions taken together is to actually return money to the Treasury. The cost will be less than today's cost in public funds.

Second, direct public funds will be provided to a candidate only when he or she agrees to spending limits and his or her opponent in the general election exceeds the spending limits. In such a case, the individual who agrees to spending limits is given public funds in order to minimize the ability of the free-spending candidate to buy the election, as an equalization device.

Third, a candidate in a general election campaign who is the target of independent expenditures by one individual or group, or coordinated independent expenditures, exceeding $10,000 will be provided an equivalent amount to assure he or she can reply to the message for which the independent expenditures paid.

These very limited public financing provisions are in the legislation in order to enable establishment of voluntary but effective spending limits which will satisfy the Supreme Court's Buckley versus Valeo standard. In order to have spending limits that meet the Supreme Court's first amendment standard, the spending limits must be voluntary, and compliance achieved by providing incentives.

I think it was important to make these three points at the conclusion of the remarks of the distinguished Senator from Connecticut. We will hear, I am sure, a great deal more debate, but I just wanted to assure that the RECORD was clear. Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, that was important. Those comments are very valid in connection with this debate. I thank the Senator from Colorado and appreciate that very much.

The comments of the Senator from Connecticut, knowing him, I feel quite sure, I would not think were in any way to cast aspersions on those sponsors of S. 2. That is a remarkable list of sponsors and cosponsors of S. 2. I think certainly that is not the issue.

The issue is not the Watergate issue. The issue is seven cloture votes and one more coming. And that is what the real issue is. There really is not another issue on this whole case. The issue is when you will a snake and snip it in seven sections, you would think it would be dead. But in this case we are going to have to lop the eighth stroke, to sever the snake one more time, which we will do Friday. I am not going to bet on it. I quit that business in this place. But that is the frustration, that is the essence of this thing that we are involved in at 20 minutes to 5.

But there is an interesting thing, I do not know if any of you saw it, about the spending limits. And this is one page. This is not really filibuster material. This is rather fascinating. "Spending limits and taxpayer financing in practice; the failure of the Presidential system." This is current, February 1988. This is just one page. It is fascinating. Overall cost to taxpayers so far, $40 million in the last 2 months alone is what the taxpayers have paid; over a third of a billion dollars in the last three elections. That is what the taxpayers have paid.

We have had a proliferation of extremist candidates and wasted tax dollars. We had half a million dollars go to Lyndon LaRouche in 1984—half a million. We had $200,000 to psychologist Lenora Fulani to run for President. I do not know how well she did. I had not heard of her before. But anyway she ran and we paid for it. And we paid for Lyndon too.

And then we got more bureaucracy and not democracy. One out of every four campaign dollars—now we are talking about the Presidential races—one out of every four campaign dollars goes to lawyers and accountants. In the 1980 Presidential race, $21.4 million was spent on compliance alone, as much as the most expensive race in Senate history. Campaigns now must process each contribution through about 100 steps. And what really has happened is that "political decisions have become accounting decisions."

There is an unprecedented growth in campaign spending these "limits." Overall spending is now increasing at the same rate as before, as before the spending limits and taxpayer financing.

Remember what we were supposed to be doing. We were supposed to limit the expenditures in Presidential campaigns. We did not do that. The overall spending is now increasing at the same rate as before. So here we go.

The difficulty now is that far more of the spending is done outside the legal limits and the disclosure requirements where there is less accountability than more accountability.

I think some of you read the article the other day on how you do it in Iowa. They have certain restrictions. You can only spend so much. So they get the rent-a-car and plane out and on the weekend they fly away from Iowa, both parties. They go out and they come back. Now, really, that is the most absurd exercise. And that is what we do with the Federal on the Presidential level.

Every candidate now, in a sense, for President becomes a cheater. Every major candidate since 1976 has been cited, Democrat and Republican alike, for serious violations of the law in which they have obtained bad press and large fines. That has happened. One candidate spent $2 million in a State with a $400,000 limit and his campaign manager reported that a year or two later and said that is the way it was. "We had no choice. We wanted to win." And Democrats and Republicans alike do this various dabbling.

Delegate and precandidacy committees are "loopholes big enough to drive a truck through"—I do not know whose quote that is; I have heard that somewhere—conduits for millions of dollars outside of spending and contribution limits. Corporations and labor both help circumvent limits by paying office rent and phone deposits and giving overly generous loans. That is the way that works. And that is a sham.

Campaign managers now tell us there is an absolute growing disrespect for the law and for the election process. Campaign managers report that the first planning priority is to identify in advance the various ways to cirumvent the limits and the rules. That is the first object of a campaign as it gathers for the Nation to a Presidential candidate. Sit down and figure out how to get around the rules.

A respected observer and a campaign staffer declared "This whole FEC thing on the Presidential races is a sham * * * it's your job to find every single loophole."

I do not know who made that quote.

Special interests wield control by spending which is far outside of the laws. Here is an interesting statistic. In the 1984 general election, special interests spent $25 million to oppose Ronald Reagan—62 percent of Reagan's $40 million spending limit. Fascinating; $25 million to defeat him and that was 62 percent of his entire limit. Now that is disturbing to me.

Nearly half the money spent in the 1984 general election, $72 million was outside of the candidate's direct control. I think that is extraordinary. Half the money was outside the candidate's direct control.

At least one-fourth of all money spent in Presidential races is unreported, unlimited, and unaccountable.

Some of the money, which we have described in this debate in various ways but I think we all know what it is—it just is a different way of getting the money to the same source without going through the reporting which would have limited it if it had been "hard" money—soft money spending is roughly tripling in each elections cycle. The races really resemble un-

controlled, corrupt politics of another era of prereform era. And yet the people think that they have got reform.

And voters must be a little turned off by it or at least they are turned off by something but we do not know what. But 55 percent in 1972, down to 53 in 1984.

And then I think a final comment is very worthwhile by the dean of the fourth estate in political wards, political activities and political savvy, David Broder said:

> Spending limits and taxpayer financing have shut down local campaigns. Grassroots democracy has died.

That is a quote of David Broder, whom I have the greatest respect for. We have to heed his words.

Then in this kind of orgy of activity with regard to reform, as we talked about corruption and polluting the system, all the things that sound good when uttered or seen in print are really not the issue here because we really do not get at the things that the Senator from Connecticut was talking about. Negative advertising; I do not know how you would ever get at that. We are going to have to address that.

But certainly the independent expenditure person is not covered under this bill. That is one of the most egregious things that I have ever seen. I was going to touch on it but it would be personal to the occupant of the Chair whose father-in-law was one of the most able U.S. Senators in this body. I was privileged to serve with him; sat right there at that desk. Chuck Percy of Illinois. He cast all of the tough votes and he knew he was coming up for reelection. There were times we would say, Chuck, do not do that. That vote is 67 to 30. You really do not have to dive off the cliff on that one. And he would say, "I feel strongly on that," and he would cast the vote.

I am not challenging what the outcome of that race was. His successor was PAUL SIMON, one of our finest Members, a Presidential candidate. But I can tell you he faced one of the cheapest shots that have ever been fired at any living U.S. senatorial candidate by one man, one embittered—I do not know how else to describe him. There must be a lot more. There are more descriptions to a guy who would spend $1.3 million of his own money to defeat Chuck Percy. Some of the nastiest, crudest, racist, in a sense; stirring the pot, bringing up the specters of anti-Semitism. A bizarre character. And he is still loose.

He was in the Chamber one day when we voted on some kind of campaign reform, and I said I would like to see a guy like that. I would like to visit with him face to face. I do not think guys like that like doing face-to-face business very well. I have not seen him yet. He called my office and babbled into the vapors: SIMPSON can't say that about me. So I just said it again. And I would love to visit with him sometime. He is an interesting fellow.

I do not know what he will be doing in the next campaign, what Republican or Democrat he might pick, but he has got a lot of money and he apparently knows he has got power because it worked.

In fact, he went up to the wife of one of our colleagues, a California colleague, at a social event one night and he said: I am the guy that beat Chuck Percy. And the wife of one of our colleagues said: I like Chuck Percy, and I am offended by the way you did that. That kind of startled him.

Well, let me tell you. S. 2 will not even take care of him. It will not even lay a finger on him. Is that right? Of course it is not right. You do not want those kinds of guys polluting the system and that is what they do, and that is what he did, and he was totally effective, and he is totally loose and ready to do it again under S. 2.

That is not right. That is just one way gaps have occurred in this piece of legislation.

So I would hope we would do something with those and, of course, it will always be said that that was his right, that was his constitutional right of first amendment expression: to spend all the money he had, if he wanted to, to defeat a candidate. OK, that is fine. The Supreme Court has dabbled in that area, made some interesting decisions: Buckley versus Valeo.

Probably if his situation went to court, they would preserve it. It is still not right. Especially when it is late in the campaign, when you have expended your money in a thoughtful way, warding off your opponent in an honorable race, and then to have this phantom enter the fray with all the bucks he can pump into it out of some type of vindictiveness or pleasure that is beyond my particular grasp at this early hour of the morning.

But he will revisit himself upon the political scene and a lot of people will be ready for him the next time. There would be even a better way to get ready for him or her, whoever is out there, and that would be to do something about it right here in S. 2. But we have not.

There are a lot of things we have not done in S. 2. Another thing we have not done in S. 2 is to prevent those remarkable calls that are placed by a phone bank on the edge of town, set up in trailer houses. They call the Bell operation and say, "We will need you about October 29, and we want you to get set up," and they will be paid, you need not worry. They will be staffed and the dials are set up and the lists are set up; and they were there in three races this year where we lost Republican incumbent U.S. Senators, which is kind of one of our interests that we preserve that fragile specie, just as you would, as the Senator from Colorado would, as the occupant of the chair would for your party. So how did they disappear from the scene here? There were some good, tough scraps. Their opponents are here and voted and are proving to be splendid colleagues, it appears. But I do not know that they were a part of this. I am not even suggesting that. But I am saying it took place and it was placed for about 3 or 4 days and the phone banks hummed and it was simply: You do not want to vote for Senator So and So. He took away your Social Security. And the calls were made to a select list of people who were in their sixties, demographically selected. And that was the question.

It was not a question. That was the statement placed in their mind by a recorder or by a fellow human being. That is a pretty good way to get the troops juiced up. And that happened to three, and I am saying that those three were probably not even involved in that. But it happened. And S. 2 does not even reach that. It does not reach that at all. It does not get to that in-kind kind of contribution.

It does not get to soft money as others of the debate have shared, and I am sure it is repetitive, but at this hour anything is repetitive, the Democrats get more money from the "big guys" than the Republicans. That is a curious statement, but it is true.

Republicans get more money from the "little guys." If you look at the breakdown of the $5 and $10 and $15 and $20 versus contributions of corporations, labor, and wealthy individuals. That is a fact. It was reported. It has already been placed in the RECORD, Thomas Edsel wrote a fascinating article on that in the Washington Post.

So that is a myth. There are so many myths here that it is difficult to discern the truth and the truth is, and honesty I say this in, hopefully, not a total partisan way, the truth is that the Democrats know how we raise our money and win and the Republicans know what the Democrats do with their money and win, and we are both trying to do a number of the other.

We do our number through a bill and you on that side, or those on the other side of supporting S. 2, do their number in their bill. That is unfortunate because we both know where the soft underbelly is. We both know where the abuses are and we are not dealing with it. And I do commend this group of eight, I really do. They are trying.

Perhaps one of the reasons that there was less action today by that group is that one of the central members of that group, Senator MCCONNELL, was unavoidably called away by business activities in Kentucky. He

will be here in the a.m. And he and that group will meet again with Senators BOREN, LEVIN, and that core group and we will see where we go from there. I think there may still be hope. I hope so.

In any event, the reality is that we both know what we are doing if we are very up front and honest on this bill. And then the other part, as I say, which is total frustration, is that we have done it seven times and we are going to do it again.

The Senator from Minnesota has come here for his shift. The Senator from Wyoming intends to repair to his chambers to rest his gangly body until my return at 10 a.m. and fecklessly rip through another day. I shall be here.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. I thought before the Senator from Wyoming repaired to his chambers, and begins to think about the myths of the evening and whatever myths and others that may float across his mind in the deep sleep that he well deserves, we might talk about some of the myths raised in the comments of the Senator from Wyoming.

First among these is the myth that there is something bizarre and unusual about the majority in the Senate attempting on a number of occasions to invoke cloture on the same measure. That has been done in the past. In 1968 the Senate had to vote on cloture four times before it was secured and the Senate was able to pass the open housing bill. In 1979, I believe, the Senate tried to invoke cloture, four times on the windfall profits tax legislation before succeeding. In 1980, on legislation to recognize the rights of institutionalized persons, the Senate had to vote for cloture four times. And, in 1981, before the Department of Justice authorization was passed, the Senate had five cloture votes. So this is not an unusual practice, to continue to go at it when legislation is obviously supported by a majority of the Senate until the requisite 60 Members of the body permit the Senate to work its will on the measure.

Another one of the myths that has been advanced this evening consists of various claims that public financing of Presidential campaigns is evil or undesirable. Mr. President, if public financing of Presidential campaigns is such a bad thing and the law is as detestable as suggested, why have those expressing their displeasure with the law not put forward proposals to change that law or to eliminate that law? And if that law on which so many Republicans are heaping criticism is so bad, why is that all of the Presidential candidates this year, all the Republican candidates as well as all the Democratic candidates, are accepting public financing and abiding by the spending limits? And since the law was passed in the midseventies, why has every Presidential candidate except John Connally agreed to participate?

Another one of the myths is that this bill does not do anything about independent expenditures. I am very familiar with the issue of independent expenditures, having been one of the prime targets of independent expenditures in 1986. A number of groups, from the NRA to the realtors to the Committee for the Survival of a Free Congress, and a couple of others come in to my State and ran just exactly the kind of negative campaigns that the Senator from Wyoming has described so eloquently this evening. What the legislation in front of us does within the constraints of Buckley versus Valeo—within the constraints of the first amendment—is to provide to the candidates who are attacked equal funding to enable them to reply after the amount of opposing independent expenditures reaches a significant level.

So within the constraints of the first amendment, S. 2 attempts to address the independent expenditure issue, though the Senator from Wyoming is absolutely correct in saying it remains a major problem no matter how we address it.

Finally, there was a brief discussion about snakes, of cutting up snakes in a variety of ways. I learned a lesson from a long time ago from my mentor in the House of Representatives, Congressman JOHN DINGELL from Michigan, who had a wonderful expression related to snakes. He did not cut them up. He said "If you want to kill snakes, squash the eggs." It seems to me that we have the opportunity here in the form of S. 2 to really squash the eggs of excessive and inappropriate campaign spending and fundraising by putting a lid on campaign spending, taking a first step toward limiting independent expenditures, and limiting aggregate PAC contributions to each candidate. The Senator from Wyoming and I both are interested in killing snakes. I guess we would have a different way of going about doing it, or are focusing on different snakes.

In any case, Mr. President, the Senator from Wyoming deserves to retire to his chambers to rest, and we look forward to seeing him at 10 o'clock tomorrow morning. Some of us have drawn watch duty for the remainder of the evening. I know he is going to miss us. We are going to miss him. We look forward to the dulcet tones of the Senator from Minnesota momentarily.

I yield the floor.

Mr. SIMPSON. With that, Mr. President, I leave this now to my good friend, and I thank the Senator from Colorado for his remarks which are well worth hearing, but the Senator from Minnesota has been aroused from his bed. I appreciate very much his coming here. Obviously I feel he has met a personal need. I am going to leave. I thank him very much. I know of great instruction in his day. I thank my friend from Minnesota very deeply.

Mr. DURENBERGER. Mr. President, I welcome the opportunity to speak, for a few minutes on this subject. Obviously, it is a great opportunity to be here at this time of the day. It is one of those unique chambers in which you cannot tell the time of the day except by the condition of the occupants. It is quite clear that from the President on down to the managers on both sides that some people have been on their feet discussing this subject for a fair long period of time.

Many of the people who are in this Chamber from time to time are all experts on the subject that we deal with because campaign financing and changes in collection law in this country are really not so much a matter of squashing the eggs of a moneyed evil as it is the way in which good people in this democracy of ours are represented in the election process.

That is a combination of how does the constituency as we call it in this Republic, articulate its own desires and its own wishes and aspirations in public policy while choosing not to be a candidate for public office? And how do those of us who have made that vocational choice accurately reflect the views of that constituency?

I think at the heart of the whole debate over election law reform, campaign financing reform, when we find the common values that bind both sides of the aisle in this case and those who are proponents and opponents of the legislation before us, the common bond is our desire as those who have chosen to go through the electoral process to more adequately and accurately represent the needs and the wishes and the desires of our constituents.

That is the common ground I think that brings us together, and that brings me here at 5:05 in the morning. And I will continue to come back from time to time as needed to speak to this issue because I think it is an extremely important one in this democracy.

One of the things that I have learned, Mr. President, as a sort of a late blooming politician, one who never really sought this office until several months before the opportunity presented itself, is that oftentimes our views on what ought to be is reflected by the present rather than adequately reflected in the past and the future. And it seems to me that we have been living for much of my adult lifetime in the reform era, and reform is a wonderful thing and great organizations with great names like Common Cause and others have risen over the issue of reform.

Sometimes it gets a little bit confusing as to whether or not it is the

reform that is carrying the day, the organization like Common Cause for example that is carrying the day, or there is a particular need like improving the way in which we in elected office represent our constituents that really is important.

And as I have observed perhaps too often from the sidelines on this debate, this debate over the last year or so on S. 2, and prior to that 1986, 1985 and so forth, I have been getting the impression that we have been carried a little bit too far along by the institutional arrangements and the desire for reform that has brought us to this debate, and not enough by our sense of the basic realities of the need to have good people doing their best in the representation of a constituency that in large part probably more accurately views what we need to do here than often we do.

Now, Mr. President, having indicated that I am a late-blooming politician, let me say that while I did not seek public office until the middle of 1978, I am no stranger to elected politics nor am I in particular a stranger to the whole issue of election law reform and campaign finance reform. As has often been stated on the floor in connection with this particular issue, we have been in the reform mode since the early 1970's.

We in Minnesota are, if there are good reformers in this country, probably the best. As the present occupant of the chair well knows, who is one of our neighbors, we in the upper Midwest or the middle Northwest or whatever the case may be are constantly trying to find better ways to do things which has a lot to do with our northern European heritage, which rises from permanent winter and the effort to constantly find a better way to keep warm or whatever the case may be. But there is something about us that constantly seeks a better way to do things.

As you, Mr. President, are aware, in the old days of reform, it was the populous, the nonpartisan movement, this grassroots prairies are burning kind of era of let us get rid of the special interests, and let us bring equity and fairness and all that sort of thing back to the farm.

So it is those roots that have brought many of us to reform, and in the case of Minnesota, I think we were one of the first States in this Nation to adopt major campaign finance reform in the early seventies. We did it as I recall under a Democratic Governor and a Democratic legislature, and it brought us a variety of very interesting reforms in Minnesota, all in the name of getting rid of the special interests and raising the value of the general interests, cutting down the trees so that we could see the forests. We probably did one of those ususally good jobs of questioning whether it was really a forest we were looking at or something else. But the reality is that Minnesota went through this period in 1971-74 of changing everything.

We made arrangements for public financing in our State so that people could check off somebody else's money on their tax return, get the good feeling that they were making a contribution without making a contribution and creating public financing of elections in the State of Minnesota. We made arrangements so that those who are enthused about the political process could get out early, arrange for shared rides for those who were less enthusiastic to make sure we could get people to the polls, something that in Republican eras we thought smacked a little bit of undue influence on the process, that is calling up people you did not know saying "Can I come pick you up at the house at 7 in the morning and drag you to the polls?"

Well, the reformists looked at that very differently, and they said, of course, these people would not vote unless someone came and gave them a ride. So, the Government ought to legislate rides. So, we make it possible in Minnesota for people to be picked up at home, driven to the polls, so as to convenience their participation in the process. It it probably a very good thing, one of the things that contributed to the fact that Minnesota always votes more of its eligible voters than any other State in the country. Seventy-five, seventy-six, seventy-seven, seventy-eight percent of the people vote in the State of Minnesota. That was facilitated by the campaign finance reform. When the people got off the bus at the polls and walked in, it did not really make any difference whether they had been in the State for 5 days, 50 days, or a lifetime because the reformists had also arranged for people to be registered right on the spot. All you had to do was bring the bus driver or some other fairly knowledgeable person along with you, who would vouch for the fact that, yes, you had lived at such and such an address for the required 30 days and therefore are eligible to vote.

We watched from the seventies as college students from all over the country would march in and lay claim to being lifelong residents of Minnesota and a variety of other wonderful things that raised the level of participation in the electoral process in our State.

There probably are some other reforms along this line that I should be able to think of at this hour of the morning to remind my colleagues of, but it is enough to say that my State made a major effort to franchise the vast majority of the electorate; again, the notion being that everyone ought to participate in the process, we ought to cut down the trees of special interests so that the forests of the general interest might be better represented in this process.

Mr. President, again back to my own personal involvement in this process, in the late sixties I had the opportunity to be the chief of staff to one of the last Republican Governors we had in the State of Minnesota, sort of lived first hand through the experience that all of you have had of watching government up close and seeing the influence on the process of a lot of the so-called special interests.

At the end of that period was the beginning of the campaign reform era, and that is the time when we were getting the scandals—I do not recall the name of the President at that time, but there was a famous President and some of the elections that he was involved in were apparently tainted with scandal of one kind or another in relationships between ambassadorships and campaign contributions and things like that. It is sort of foggy in my memory, Mr. President.

(At this point, Mr. CONRAD assumed the chair.)

Mr. DURENBERGER. But the reality is that the era began right about the time we were leaving office in Minnesota. I noticed at that period of time some of the efforts on the part of the larger companies in the State of Minnesota who had ventured out into what was then called political action committees but it was a legal arrangement by which companies could get their employees involved in the political process. All of these companies were starting to fold up all of these committees because apparently a number of the contributions made to the then-President of the United States came from these things called political action committees. Therefore, they became tainted and by association anybody who had any of these political action committees that endeavored to get citizens of my State involved in the political process by making a contribution, following that contribution up in some way, all became tainted by the scandals of this period. So, I noticed as I was leaving the Governor's office, or the assistant to the Governor in about 1970 that a lot of these companies were starting to fold up their interests in the process. No longer did you see anybody but the lobbyists for the company standing around the halls of the legislature. You did not see the employers any more. They folded up the political action committees. They folded up the process because all of us were and had been in one way or another tainted by this broad brush of illegal in some cases or special interest consideration.

So, Mr. President, a number of us, both Republicans and Democrats, at that time got together, and I suppose it began, I cannot recall its specific

genesis, but it began as simple as sitting around someplace after work bemoaning the fact that government was going to be left to the real special interest or the single interest, unless somehow this broad base of support for the process were saved from all of the reform that was going on at that time.

So, a couple of people at that time got together. It was the chairman of the Democratic Party in my State, called, as the President knows, the Democratic Farmer-Labor Party and the chairman of the Republican Party, which is now called the Independent Republican Party. I can tell you something about Minnesota. We get very hyphenated in our efforts to distinguished ourselves from other Democrats and other Republicans. But the leadership of both the parties got together in the period around 1970–71, to deplore the fact that broad-based political participation in the election process was disappearing, that in the aftermath of all of this scandal in campaign, illegal and otherwise financing, the people were pulling out of the process and, of course, the party people recognized that if people got away from the process there would not be any political parties because political parties obviously are sustained by broad-based contributions to the political systems through political parties and those of us who were not officers of the political party but were involved in the government also saw that broad-based participation in this process was the only way you are going to get two, three, four, five sides of an issue.

So, we put our heads together, Republican and Democrat, to talk about what we were going to do about it. The net result was that we began an effort for a couple of years at that period of time to encourage people in the community at large, the business community, the professional community, and so forth, to broaden the base in their own memberships, employees in the case of businesses, members in the case of professional and other associations, to try to continue to broaden the base of participation in the political process, and believe it or not, in a nonpartisan or a very bipartisan way we went out, held conferences, seminars and all that sort of thing trying to push the notion of political action committees because we felt in this very progressive State of Minnesota the political action committee and/or whatever it may have been called in those days probably the best way to make sure you had a lot of trees in the forest and not just a few so that you could get a wider interest represented.

So, with that process I think a couple of things happened in Minnesota. One, we sustained some modicum of interest on the part of large associations, membership associations, employers in some kind of involvement in the political process, and some of us who were involved in trying to sustain this effort also got drawn into the implementation of the campaign finance reform in my State of Minnesota.

So, when the Democratic legislature got around to passing all of its reform legislation and when they as part of this reform legislation created a Senate Ethics Commission, as they called it at that time—I think it then became the Ethical Practices Board—that gave this commission responsibility principally for implementing the new campaign and election law financing legislation in the State of Minnesota, together with some small amount of ethics at work, that is lobby registration, lobbyist registration, an all of that sort of thing.

But the principal job was the task of setting up this new public financing system making sure that it worked and all of the proper registration, and so forth, was done.

So that is my recollection. That happened in 1973–74. And because, I suppose, there was still a modicum of bipartisanship in the legislature at that time even though one party controlled both Houses, there was a requirement that if the Governor chose a Democrat as a Chair, which he did, that he would have to choose a Republican as the Vice Chair of the committee. And I just happened to be lucky or unlucky enough to have been fingered by the then Democratic Governor of the State who used to occupy a seat in this Senate for several years to be the Vice Chair of that committee.

So from the time that campaign finance reform and election law finance reform came to Minnesota I came to second Chair the process of reform.

All of that, Mr. President, is only by way of background as to why I rise to comment on this issue and also to indicate as I have previously that each of us is an expert on this subject, but we come from a particular different view and I wanted everyone to know what colored my particular view on this subject.

We spent an interesting couple of years putting this whole program together, spending the other people's checkoff money in one way or the other, and I think during that process learned some important things and some important lessons that this Senator has not lost sight of as he has watched during the eighties the national efforts to move in the direction of restraining the growth in campaign expenditures by exploring constitutional means for that restraint, much of which in one way or another involves what is so-called public financing.

Now, Mr. President, my experiences as I recalled them with the system in the early seventies and into the mid-seventies were while they were enjoyable in one sense, I guess I would have to admit that to some degree they may color my judgment about the legislation before us in its various amended forms, much more so than my personal experience in electoral politics, which I would, if we have the time, be glad to share with my colleagues as well since I am one of the more expensive candidates for one reason or another to have graced the halls of this Senate.

But I think it is the early experiences that we have with reform that stick with us the longest, and it is for that reason that I have probably dwelt or will dwell more on those experiences than my own personal election experiences.

But we were there doing the implementation of campaign finance and election law reform in the heart of the reformer era. We were there with Gene McCarthy. We were there with Bill Buckley. We were there with the famous 1977 Supreme Court case that I am sure has been mentioned in the course of this debate frequently, the case of Buckley versus Valeo.

And while Buckley versus Valeo just like Roe versus Wade and a variety of other now very famous constitutional decisions of the seventies may well be changed in the era of the eighties and the nineties, we still live as we all know with Buckley versus Valeo as the sort of iron hand that guides our efforts to reform and it is a difficult one. It was difficult for us in 1977 because Democrats and Republicans alike found it incredibly difficult to deal with the realities of Buckley versus Valeo.

I still find it difficult to deal with the realities of it.

My colleague from Colorado has referred to independent expenditures. I would refer to running against a $7.5-million man and that sort of thing, so we all know that there are sort of built-in constitutional limitations to doing this reform business the right way.

But I raise that, Mr. President, because I think it is important when you play around as some may say with changing the election financing, you play around with the process of elections; and when you play around with the process of elections, you are fooling around with the people's right to choose.

So I think it is very important that those of us who engage in this debate acknowledge to our constitutents who care deeply about reform that we and they have some built-in limitations in these efforts, that we do not agree with them and we do not think they would agree with them. One of those limitations is that Supreme Court decision of 1976 because it sets some parameters to what can be done in our efforts to equalize access to this proc-

ess that most of us, I think—I obviously cannot say everyone—but practically everyone I run into who discussed this issue agrees that that decision has some unreal limitations on reforming the process.

But that was the era in which we were building a new election financing process in the State of Minnesota and we started off from 1974 to 1976 going down one track of implementing this legislation. When Buckley versus Valeo came along, we obviously adjusted that track.

Again, Mr. President, strictly by way of informing my colleagues from whence I come to this issue and from whence I come to my fairly strong opposition to the efforts on the part of my colleagues in this body to reform via an amended S. 2 this whole election process.

Now, the experience that we enjoyed in this period of time in the seventies was valuable to me from several respects. First, it showed me more deeply than I had probably previously seen that changing the rules in political campaigns can be kind of a risky endeavor. It is sort of like the proverbial putting your finger in the balloon because when you push in on one side of the system, something comes out on the other side.

We were talking about Buckley versus Valeo. If you want to dissect that decision, you can find one of those typical balloon situations where you push in here and it comes out on the other side. And at some point the Court quit pushing on the balloon because it could not handle the fact that balloons are spherical. And I cannot describe what air does inside a balloon in physical terms, but it just has one of those incredible consequences that we mere humans have not been able to figure out a way to deal with. And so in much the same way this hour are we going to permit people to spend money, or how are we going to require people to spend money in the process of elections, too, is very difficult.

But as others on this floor have indicated also in the period of the seventies—and I think it was my colleague from Connecticut who spoke fairly strongly, the former member of the Watergate Committee spoke quite strongly to the fact that one of the things that came out of the Watergate era was sort of a new view of political action committees and PAC's and so forth. And that one of the things that the reformists of the Watergate era wanted to be sure happened was that we had some kind of a broad-based constituency under a campaign financing.

And so we in Minnesota, as we approached that issue, we also found that we were struggling with how do you restrict the interests on the one hand and how do you broaden them on the other hand and found that that was difficult to accomplish unless at some point you trusted the public to make judgments about the electoral process.

So as a sort of an original free enterpriser, consumer choice, "don't let the Government make the decisions for you" person, I came to this process acknowledging that if you want to do public financing in one way or another, you could. Certainly, there is nothing per se wrong with public financing of elections. What was wrong or seemed to be wrong with this process was how we actually set the process up. Public financing is something most of us, I think, have participated in at the Federal level, until those of us on the Finance Committee, in our relatively poor judgment, in 1986 eliminated the opportunity to take a $100 deduction for a $100 political contribution. So we have been at public financing for a long time, and there is nothing wrong, in this Senator's view, with a tax policy or some other Federal or governmental or public policy that enables us to broaden the responsibility for our individual decisions about where our money ought to go.

By the same token, it has been my experience that the efforts of others to broaden the base under this system through, for example, the political action committees which encourage people who otherwise would not contribute to contribute. And there is nothing wrong with them. What seems to be wrong in any system is not telling the electorate what you are up to.

So if we go about this process and leave to occasional newspaper disclosure the fact that the members of such and such an association put $5,000, or $10,000, or $20,000, or $30,000 into Senator DURENBERGER'S campaign and this comes as a once every 2-year or every 6-year disclosure, and it comes from some bold headline in some newspaper, then of course we raise public suspicion about the influence on the process. Just as in the sixties and the seventies we were alarmed at the disclosure that so and so in such and such a city contributed a million dollars one way or another to President so and so's campaign and as a result ended up being ambassador to such and such country. So as the disclosures come to us in the form of an exposé, along with the murder and the drug running or the whatever the case may be, the illicit behavior, we react and we react adversely.

So one of the principles that all of the reformists have adopted, those who believe in campaign limitations, those who do not, it seems to me one of the common principles that we have all adopted in this process is public disclosure as part of this process. And, Mr. President, that is, of course, where I come down in sort of my bottom line when I quit sticking my finger into this balloon before us. The one place that I keep it in is in the area of public disclosure.

If we set up limitations on how much an individual contributes, OK. If we can set up limitations on how much a group can contribute, that is fine. But I do not think in and of itself those limitations make the system work any better.

What makes the system work better is that John Q. or Jane Q. Citizen has before them constantly, in some cases with a little inquiry, most of the time without the necessity of inquiry, has before them access to accurate verified information who is giving what and in what amount to whom.

Disclosure makes available to everyone the dollar denominated amount of a contributor's influence on this process. It does not tell them how much that influence is, which is one of the unfortunate things about this process. But influence often gets aggregated and then a variety of implications arise.

The reality is that if you trust your constituents to come to judgment about you and if you trust your constituents to come to judgment about those who participate in your efforts to make public policy, then you almost have to come to the conclusion that giving all of those constituents access to accurate information about the dollars that are involved in the election process, the dollars that are involved in individual contributions to this process, then you really have to at some point say: "Well, I don't trust them to make the right judgment with that information. That is why I want to go and engage in additional limitations in the system." Or you are going to have to just say, "Well, I trust them. Give them the information. They can come to a judgment. They can come to a determination about whether it is the money that influences the process or whether it is something else that influences the process."

So I think, Mr. President, it is important to bottom line a lot of this discussion of reform by trying to reach some agreement between ourselves as to the issue of disclosure. Because it seems to me that those who would take the current election financing laws beyond where they are today in one way or another have to agree that disclosure is an important part of this process. Where they disagree, it would seem to me, is as to whether or not disclosure in and of itself is an adequate way in which we can take influence or undue influence out of this whole process.

So I would begin by making the argument that disclosure in and of itself does most of the job. We can go beyond that in a variety of ways and say in addition to that we ought to put $1,000 per election limitation on individual contributions or we ought to

put a $5,000 per election contribution limitation on political action committee contributions. We can step beyond disclosure and put other kinds of limitations on this process. And, of course, we have already done that. And I do not know that there are a lot of arguments as to how best to accomplish that in this body today nor has there been among our predecessors.

Where the argument, Mr. President, seems to arise most frequently, as we have acknowledged many times here on the floor of the Senate and in other fora, is with the size of the total dollars that are expended in campaigns. I do not know how many times I have heard people refer to the amounts of money that either I have raised or I propose to raise in a campaign as being obscene. And in one sense they seem obscene.

I can recall helping my law partner run his first and only campaign for Governor or any other statewide office, 22 years ago. He won it. And it strikes me, it is my recollection at least, and I think this is approximately correct, he ran a statewide campaign which ran through 18 ballots at a Republican convention, running against three other better-known candidates, including a former Governor. He ran through that process and then he ran against the incumbent Governor of the State for election and won by just a very slim majority in a very hotly contested campaign in 1966. But I think the total expenditures in that campaign were something in the neighborhood of $400,000 or $500,000.

Well, my first election 12 years after that cost something in the neighborhood of $1 million. And my opponent spent over $2 million of his own money. So we spent together, in a relatively brief campaign—mine began around the 1st of May and ended on the 2d or 3d of November—together we spent over $3 million in the same State. We do not have a lot of population influx into Minnesota, so it is not like we were going from a million population to 4 million. We were roughly 3.7 to 4 million in 1966 and 1978. So you are going from a $400,000 statewide campaign, hotly contested over a year and so forth, to a 6-month campaign that cost over $3 million on both sides.

And then only 4 years after that, in an effort to seek reelection, I found myself spending $4.3 million. And I spent $4.3 million, not because I felt like spending $4.3 million or that was the most I could raise. I spent $4.3 million because that was the most I could raise against a person who spent $7.2 million of his own money to try to unseat me at that particular point in time.

So together we spent $11.5 million, $12 million or something like that, maintaining representation from the State of Minnesota in 1982 in the U.S. Senate.

In 1984 my colleague in this body up for reelection for the first time was not lucky enough to run against a self-financed campaign. He ran against a Secretary of State who had been in office for a long time and was fairly well know, was able to raise maybe $1.5 million, $2 million and my colleague raised something in excess of $6 million. That was his judgment, I guess, about what it would take to win an election and his judgment proved right. He won the election. I would suggest it was a lot easier year in which to run but it was one of those judgment calls that everybody has to make. The process then raised, again, between the two of them something between $8 to $9 million and in a State with 4 million people in which a few years previously it had cost less than a million to run statewide.

So, on and on, people look at those figures out there in Minnesota, in the good government State where you think everything comes free and "where the women are strong, the men are good looking and all the children are above average" as Garrison Keillor made famous about folks in Minnesota and you say why should it cost so much? This is terribly obscene that all of this money should get spent on elections.

It is only obscene, though, Mr. President, in the sense that we here wish, we who are willing to get up at 4 in the morning to come and debate this issue, wish with all our hearts that we did not have to raise all of this money and we would like to couch that in terms of: why should elections cost so much? But the reality is we would like not to have to do all of this work. Most of us enjoy coming here at reasonable hours, debating some of the great issues of the day—this may be one of them in the judgment of many of our colleagues—and not spend a lot of our time between 6 and 8 every evening at fundraising receptions and/or other parts of the day, asking people to provide financial security for our campaign.

But the reality as I have observed it, Mr. President, over the years that I have been near public office, involved deeply in campaign financing reform, and then as a participant in this process, now, in three elections, the reality is that compared to everything else that Americans spend their money on in my book there just ain't nothing obscene about a $6 million campaign by my colleague or a $6 million campaign by me or anybody else. It is not the totality of the money we raise in these campaigns that is obscene.

People who are better equipped at this debate than I can take you through the amount of money that we spend on advertising everything from chewing gum to, you know, Lord knows, all the other things we do not need in our society. Just find out how much money, hard-earned cash, Americans will spend on the useless things that are spent by a consumptive society and its advertising genius and compare that with the relative pittance that we spend on election campaigns. I think to the degree we are willing to make those kinds of comparisons, we would, most of us, have to come to the judgment that it is not the dollar amount that goes into elections that is obscene.

So I guess that particular word, in association with what I do or what I spend, I find inappropriate. Again, I would say from my personal preference I would rather not spend a lot of my time raising money. I would rather be a statesman than a politician. I would rather spend my time listening to my constituents, digesting them through this well-trained brain of mine, and then coming down here and shaping the future of America.

But the reality is that what makes America really something, a special place, is not so much what goes on here in the shaping of policy as it is in the way that the politicians of this country are shaped. I would like to suggest, despite the limited audibility of this message at this particular time of the day, one of the things that we lose sight of in this process is that particular point. It is not the shaping of policy, particularly today, that is as important as the shaping of policymakers and those in the election process.

Many of us who have come to this process in midlife, so to speak, I think, look about us at the high quality of the people in this place. And yet we also have the experience of pleading with others to run for public office. We find it, and I am sure others have shared this experience with me, we find it very discouraging to see around us in our constituencies, people who are unwilling to participate in this process for one reason or another.

Much of it is a discouragement, not with the election process, not with what you have to do to get elected, but a discouragement with what you have to do to be a shaper of public policy.

So it seems to me that if we put more of our effort into shaping the politician and the election process and less of it into the numbers involved in campaign finance and how we are going to go about it, we would all be substantially better off.

I find that the process of raising the money that I need to run a good campaign is for me a very healthy process. I was on the floor here a few months ago in a little discussion with the majority leader on that subject. He was decrying, as he has many times, the schedules that Senators have to keep. They cannot be here on the floor

when he would like to see them on the floor because so and so has a fundraising scheduled here and so and so has a fundraising scheduled there and so forth.

The allusion at the time that I drew, and I will admit that it was implied, that somehow or other going to a fundraiser or exposing yourself to the opinions of those who were potential contributors, somehow was either degrading to the process around here or was something less than a proper influence on the shaping of this system.

At the time, and today, I strongly disagreed with that theory. I remember saying back in 1982 all over the State of Minnesota that I thought there is something arrogant about a multimillionaire saying: "I am going to get myself elected on my inheritance." I mean, if that is the case, well, let us populate this place with those of inherited wealth. This would, in effect, be the House of Lords. Let us put restrictions on all contributions and say that no one can spend anyone else's money. The only way you can get to this place is on your own.

I found that while I do not think the man I ran against is arrogant, in fact I like him a great deal, but I think the experience that I had of running for a year and a half, having to go out and raise $4.3 million from, I don't know, 40,000, 50,000, maybe 60,000 contributors—that is a large number in my State, larger I suspect than a lot of other States—led me to believe that there is an arrogance in somebody saying: "I do not have to do that sort of thing, and I will not do that sort of thing."

If I walk into the XYZ Co.'s cafeteria where a couple of hundred members, contributors to their political action committees, are gathered and tell them what kind of job I am doing as a U.S. Senator and ask for their continued support, I find that a very important and integral part of this political process because they can say, "No." And if they say "No" I am not going to get their support. I am not going to have the financial support to my campaign and I am not going to be in the U.S. Senate.

So, it is rather arrogant for an opponent who does not depend on his constituents for his election to walk by that same place, watch me talking to all of the employees who are also voters as well as contributors, and say: phooey to all of you. I do not need your money. Which is, obviously, what those folks do. They do not need the money. They make the decision they are not going to take political action contributions.

Well, all they are saying is they do not want the support; they will not take the support; they do not care about the involvement of all of those people. They want them to turn out at election time. How do they get them to turn out at election time? That is very easy. They go down to the bank and draw out a check on their own account and they buy 30-second ads on television and tell them what an awful person I am and what a wonderful person they are, and they inflame their desire to come and change the system by changing the Senator.

That, Mr. President, is an experience that all of you should have to go through. It is one thing to run against a candidate or an opponent who operates on the same rules you do; who has the same kind of financial parameters around him or her that you do; who has to go to the same people you do, not only for the vote but also for the contribution to run that campaign compared with running against somebody who does not have to do that. While I am not advocating that all the millionaires in the country get to work running against my colleagues here on the floor of the Senate, I suggest that when it does happen to you it is going to be a healthy experience and one that you ought to have before you come here, prejudging the opponents of S. 2 and our views on the restrictions that would be placed on this process.

Now, I am talking about the so-called obscenity of campaign spending, Mr. President. Let me remind my colleagues that, after talking a little bit about chewing gum and some of the other things we spend money on, that the Supreme Court has ruled that campaign spending is free speech. We have talked about Buckley and Valeo in the past here and I think we have also, at least I have argued that some of the interpretations of free speech in Buckley versus Valeo I do not agree with because I think that they are outside the realm of, sort of, the reality of the way things work in this society.

I have just addressed myself to one of the principal problems with Buckley versus Valeo and it is a commitment to free speech and that is the right of those of independent wealth and means to flaunt the electorate in a sense in their participation in financing campaigns and to reject their participation.

But the reality is that if we stick with this notion of free speech that limitations on the amount of money that can be spent in a campaign are also a limitation on the right of free speech. If I take away from the millionaire his right to spend his millions, that is a limitation on his right of free speech.

If I take away the right of the independent expenditure—maybe I should limit it in some way—but if I take totally away that right guaranteed in Buckley and Valeo, I have placed a limitation on a free speech in this country.

So, Mr. President, to the degree that you say to someone who comes from a State in which the spending levels in a Senate campaign have gone from $1 million to $2 million to $4 million to $6 million, whatever I was just describing, that from now on in that same State you can only spend $2 million per election, you are limiting not only my right of free speech; not only my opponent's right of free speech; but you are limiting the right of a lot of other Minnesotans' way and manner of speaking to you that can only be articulated at the time of an election through someone like me or through my opponent.

We decry, today, the lack of issues in the Presidential campaign. It is all about feelings. It is all about who said what about whom, not about what. So we have a tendency today, perhaps, not to look at political campaigns as a forum in which the great issues of the day are decided.

But, to many of my constituents and to practically all of my contributors, the reason they make contributions and the reason they participate in a more direct and financial way in this campaign, is it their way, not of influencing an election, but of influencing public policy.

It is their way of interfacing with the great debates and the little debates over the issues that are important to them and business, professional and ethical, social, moral, or economic sense.

So to the degree that you limit me in this election process and to the degree that you place financial limits on the amount that I can spend, you also limit the rights not only of my free speech but my speech on behalf of a lot of those contributors.

Another observation that I have relative to the amounts that are being spent in campaigns is simply that it strikes me as I look back at the data that campaign spending grows not with the avarice or the fundraising capabilities of candidates as much as it does with the cost of advertising in the economy as a whole.

It also strikes me, and probably the person who has influenced my thinking on this as much as anyone is my oldest son, who is now 24, that there is a direct relationship between the amount of money that we spend on campaigns and the medium which dominates all life in America. That is the medium of television. Frankly, when I asked my son on or about the time that he finally got his degree in political science, which was not a degree to be any expert, I trust, nor to follow his parentage, but sort of his intense interest in the political process—when I asked him how would he do reform of this political system, if he did not like the amount of money that was spent in a campaign for some

reason or other, if he shared the feelings that some of the proponents of S. 2 have, certainly the folks in my State who have gathered around to make a common cause on this issue, how do we change the system, he said, "Well, it is very simple." He said, "My observation is that the worst part of the campaign is the 30-second commercial." He said, "Dad, you are kind of long winded like a lot of your colleagues, and I don't know of anything that you can say that makes sense in 30 seconds."

So you end up hiring somebody else to get a message that you have to deliver down to 30 seconds, and that often comes out often not sounding a lot like you but sounds like what folks want to hear. So he said he had come to the conclusion that the best way to elevate the debate, the best way to increase the amount of genuine information about the candidates and about the policies of campaigns, was to increase the amount of time that we who are candidates spend in discussing the issues of the day or defending our records, and the best way to get us to do that was to keep us off of 30-second or 60-second ads on television.

So when I asked him "How would you reform the system?" He said "Just pass a law that says that you can't spend any of that campaign money on television commercials of less than 3 minutes or less than 5 minutes." That will give you a double whammy. It will put good stuff on television, newspapers, radio, public forum of one kind or another. It will force debates over issues in the political process and it will automatically lower the cost of campaigns since the driving force in the dollar amounts that get spent on these campaigns usually is the cost of television advertising.

I guess I cannot disagree with him. Obviously, I have been kind of quiet about passing that suggestion around because those who are beneficiaries of the free speech and who bring us a variety of commercial media in this country would object to any notion of limiting access by politicians to this process. Yet a lot of them are the same people that agree that we ought to limit the dollars spent on this campaign.

Mr. CHAFEE. I wonder if the Senator will yield.

Mr. DURENBERGER. Yes. Mr. President, I certainly immensely enjoyed this opportunity, particularly at this time of the day. There is nothing I would rather have done than to be here to share some of these very preliminary thoughts with my colleagues. But as I say, they are preliminary thoughts, and I am just sort of beginning to whet my appetite on this subject.

I will be glad to come back at a later time hopefully in daylight and discuss some of these thoughts that I have had on the subject for a long time and my own experiences further. But I have a colleague who, when I was just sort of learning this game at the knees of a Governor in the State of Minnesota, was already practicing it in his own State as a Governor of Rhode Island, and one of these people I have always looked up to in many ways in not only the way in which he makes policy but which he in a heavily Democratic State manages to be a Republican policymaker.

So I would be very happy to yield the floor at this time to my colleague from Rhode Island.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I do want to thank my distinguished friend and colleague from Minnesota for those kind remarks. He has served in this body now for some 8 or 9 years, and it has been my pleasure to work with him on several different committees, principally the Finance Committee, where he does such an excellent job.

Mr. President, I just would like to address the subject for a few minutes, if I might. I feel badly that we are undergoing this present process. I must say I cannot quite understand it. I voted last year for cloture seven consecutive times on this measure. And I have been one of two Republicans that has voted for cloture every single time. It is obvious that cloture is not going to be achieved. Nothing has changed.

So I just cannot understand the tactics that the distinguished majority leader has chosen to follow in this instance. I might say that he is a man of whom I have great respect and have had the privilege of working closely with on many separate occasions. But the question, it seems to me, before the body now is: Do we want a cause or do we want a bill? If we want a bill, then this business of cloture votes, unsuccessful cloture votes—as took place last year, when no bill emerged and, as a result, the chance for meaningful reform, not the total reform that the majority leader would like or that indeed I have supported, was lost—this practice of cloture votes is not the way to go.

In the best of all worlds, everybody would get exactly what they want. But that is not the world of government. That is not the world of politics.

As legislators, we must compromise settling for half a loaf or three-quarters of a loaf in order to make some progress and move ahead. But unfortunately, that is not taking place in this instance. There is such insistence on the public financing of the campaign spending limitations that the other chances for significant reform are foregone. This is very, very unfortunate. Apparently, that is the process that again is going to be followed this year.

What am I talking about with significant other reforms? Well, I think I personally strongly feel there should be a limitation on the political action committees. We all recognize that in nearly every State a political action committee can give a candidate $10,000. This is absolutely ridiculous. And the contributions that the individual can make to the PAC are sizable.

It just does not make any sense. That is what I find my constituents are most indignant about, the so-called power of the PAC's. The argument is that if you limit PAC's to, say, $5,000 or $3,500 or some amount like that, that they will then just split like a meatloaf and instead of having one PAC, you have two PAC's and one PAC not being able to give $10,000, you have two PAC's giving $5,000, or three PAC's each giving $3,500.

Well, that can be addressed. The technique of limiting the PAC's themselves, of limiting the overall contribution of the PAC's can be addressed. But unfortunately those issues are not being considered and enacted into law.

As a result, that type of reform is being deferred later and later because clearly those candidates running in 1988 have already exceeded any possible limitation that would be in a bill on the total PAC contributions. And they are not going to unscramble the eggs at this time which would be too complicated. And those who are running in 1990, I am convinced, have already exceeded any limitation that we might put into legislation for PAC contributions. So it is too late for that group.

Whether the class of 1992 that has already been out there and has exceeded the limitations that we might put in for PAC contributions I do not know but I would not be a bit surprised if aggressive candidates just elected 2 years ago or a year ago are on out there seeking more campaign funds, and probably have at least come up near the ceiling, potential ceiling, that we might enact on PAC contributions. They probably already may well have reached it or exceeded it.

So what is happening here, Mr. President, is that we are deferring the enactment of meaningful reform by this process that is being followed here and was followed last year as well.

Let us review the bidding if we might. It was Senator BOREN and the distinguished former Senator from Arizona, Senator Goldwater, who started with the whole campaign reform measure. While there was no overall spending limitation in their proposal, it did contain restrictions upon PAC's, addressed to some degree to the so-

called soft money problem, but principally it was a PAC limitation bill. If I recall correctly, it also addressed the problem of the individual contributor.

That took place in 1986, and it was not enacted.

Then came 1987 and the Boren bill was changed. The Boren bill then had these total limitations added to it. I signed on to that bill.

In 1987, as we recall, there was not one, there were not two, there were not three, not four, not five, not six, but a total of seven votes on cloture. That is the most votes on cloture that has ever been taken in the history of this body on a single bill to the best of my memory and judgment, certainly since I have been here. There has never been anything approaching it.

As a rule of thumb, usually if cloture is not invoked after three votes, the effort is withdrawn.

Not in this case. Seven votes. In all seven votes I voted for cloture and, as I said, I am only one of two Republicans who did that, the other being my distinguished colleague from Vermont and since then the distinguished junior Senator from Kansas has joined in voting for cloture.

But that is it and it is clear, it is absolutely clear that there are not enough votes in this body for cloture. A valid, energetic, vigorous try has been made, and now it seems to me is the time to turn to something less than the whole loaf.

What is happening here in pursuit of what some view as the perfect—and I might say there are legitimate arguments on the other side by those who are leading the battle against certain provisions of this bill—is that those of us who have have been supportive of the Byrd-Boren approach, are losing the chance to achieve the good. The good is being defeated by the search for the perfect. And to me that does not make sense for our country.

I feel very bad that the distinguished majority leader persists in this effort instead of turning his attention to some meaningful reform.

What are the meaningful reforms that might be achieved? Well, we have talked about the PAC's, how much the PAC's are able to contribute to a candidate. Clearly, that should be limited. We should talk about the so-called soft money. Is it fair for one candidate to be able to marshal assistance in organizing the phone banks, getting out the vote—not just get out the vote, but get out to vote for candidate X—without having any kind of disclosure or reporting or any form of limitation. Yet that is not touched. That is the so-called soft money provision that could be well enacted, and it seems to me, Mr. President, that the thrust in all campaign spending laws should be disclosure. That is what we want. Let the public know what is happening, where the money is coming from.

I must say I personally have run into a situation where I think a reform could be made and that is disclosure of the appropriate names of PAC's. Currently, a PAC, in its name, has to indicate what its principal purpose is, but apparently there is a grandfather clause in there that permits these PAC's with the vaguest of names, for instance "Citizens for a Better Los Angeles," to pour money into candidate A or B. Any individual examining a reporting sheet has no idea in the world what this PAC is for and if it is a PAC for clean water or if it is a PAC pressing for nuclear power or if it is a PAC to encourage the use of tobacco or a PAC to discourage the use of tobacco. In some way the name should indicate what the PAC is all about. Clearly that does not exist now.

The current law for those who are forming PAC's is that they must indicate their purpose, but why the law does not apply to all PAC's so that we could get some indication of what each and every PAC is all about. There is a reform that clearly should take place following the thrust or disclosure.

Now, what about other possible reforms? One of them has been the so-called millionaire's loophole, and that works as follows: One of the things that currently takes place is you have very, very rich candidates who are able to practically finance their own campaigns. What they do is they loan themselves the money. They loan themselves $2 million, and that is far more than the opponent can raise or has available and we cannot do anything about the ability of an individual to use his or her own money. That is clear in the Constitution as interpreted in Buckley versus Valeo.

All right. But then the candidate, having been elected with this vast amount of his own money which he has secured through subterfuge, then has a massive fundraiser after his victory and repays himself so he is not out a nickel.

One of the provisions that has been discussed and to me makes a great deal of sense is closing this so-called millionaire's loophole and provide that anybody who lends himself or herself money will not be able to seek repayment subsequently from any type of fundraiser. He cannot repay himself.

Now that puts a great damper, I might say, on these individuals who have the wealth and proceed to lend it to themselves and then go out and have a fundraiser thereafter to pay themselves back. Those are three significant reforms.

I think we ought to look at the individual contributions. I recognize that the limitation is $1,000—$1,000 for the primary and $1,000 for the general election—but I think we all recognize that certainly in most States anyway it ends up to be $2,000. There is some type of a primary somewhere that permits the candidate to qualify for the extra $1,000.

Now, is that the correct amount? Should it be more? Should it be less? I think that is a subject that clearly could be reviewed. I do not have any strong views on it one way or the other. I frankly do not feel it is too much. I do not think anybody given the cost of current campaigns, is going to attain influence over a candidate because of $2,000. But these are things that should be examined.

Let us take a look at the arguments that have come from the opponents of this legislation, and I do not denigrate those arguments at all. As a matter of fact, it seems to me this is one case—I do not want to say it is the only case—but it is clearly a case where extended debate has indeed enlightened those who have taken the trouble to listen to it.

I think the arguments of the junior Senator from Kentucky have been very, very good.

Now, I have no reason at the present time to deviate from the support that I have given to the majority leader's position. That is as far as cloture and the bill goes, but nonetheless, I can see the validity in the arguments that are presented by the junior Senators from Kentucky and from Oregon. Both of them have made a lot of sense and have caused us to pause and think about the points they have brought forward.

Of course, one of the arguments that we who are in favor of some spending limitations use is, "Look at the spending laws for Presidential campaigns, is anybody seriously proposing that we repeal that legislation?" I have not heard it.

Now, let me take a look at this particular argument. It says, in one of the points that the junior Senator from Kentucky made that every major candidate, since 1976 has been cited for serious violations of the law. Large fines result. One candidate, and I believe this was in New Hampshire, in 1984, spent $2 million in a State with a $400,000 limit. I do not know how that can take place. But apparently it did, and if the individual candidate is just cited for violations of law, it does not seem to me the law is being enforced appropriately. Now, that particular candidate lost, and I suppose there is no point in beating a dead horse in trying to fine him, as it were. Probably he had no money left from the campaign anyway.

But, something is wrong if that takes place.

Another point that he makes, is that overall spending for Presidential campaigns is now increasing at the same rate as before spending limits and taxpayer financing was enacted.

Again, I am not quite sure how that takes place, but it is worthwhile look-

ing into it and I am not sure that those points have been addressed on the floor. But I have heard, and these are people who I have been allied with, mind you, the great concern over the increased spending that has taken place, the mammoth amounts, the time that is consumed and I believe those are legitimate points.

I am up for reelection next fall and I have found that I have spent some time in raising money. Whether it has been more or less than in other years, I do not know. I think perhaps a bit more, but again in past years I did not spend a total of a great deal of time and so the amount that I am spending now is not that much time and clearly it has not interfered with senatorial activities, especially, I might say under the schedule that the majority leader has adopted for this body this year with 3 weeks on and 1 week off. Any fundraising that we choose to do can be done in that week off. As everyone recalls previously, if we had fundraisers, we would have them on a Monday when the Senate was in session because that was usually a very quiet time.

There is one other point I failed to address in the significant reforms that might be undertaken that we are losing a chance at, and that is the unaccountable, outside contributions and unaffiliated contributors.

Now the way the law currently works is if candidate X is running in Rhode Island for reelection, somebody from California unaffiliated with X's opponent can come in and spend any amount of money he or she wants in that campaign, both pro the incumbent or anti the incumbent, and to me that is just plain unfair.

Now, what can be done about it? I do not know. I am not sure. I suspect, again going back to the Buckley case which, of course, concerns an individual contributor to his own campaign, that under the constitutional provisions for freedom of speech, an outside individual cannot be prohibited from spending as much money as he or she wants in an attempt to defeat or provide for the reelection of a candidate.

I wish we would spend time addressing that problem. It is a legitimate one. We have seen it come up. We have seen it come up in one notable race in Illinois. I think we ought to address it, and undoubtedly it is possible to address it.

But those are things that I think we ought to be dealing with here instead of this driving attempt to achieve these campaign spending limitations that are not going to take place. And I can say, from my point of view, that this is unfortunate, because, as I mentioned, I voted for cloture.

I have listened to the arguments of those who have been against these limitations. Up in our region of the country where it is very, very hard to get Republican candidates to run, public financing is not all that bad. We have rather solidly entrenched Democratic incumbents, in many instances—I am talking about the whole New England area. The ability to attract candidates is always discouraged by the fact that the candidate is not going to have any money and probably is not going to be able to raise any. So, from where I come from, the Byrd approach would be helpful to us.

But that is not true apparently in other sections of the country. What is good for us is not necessarily good for others who feel so strongly about this legislation.

Thus it seems to me we ought to get on with it. And I have expressed those thoughts to the majority leader, but it is his view that he wants to press on, as is indicated by S. 2 being the dominant item on the calendar, not only for so many rollcall votes last year, so many cloture votes, but apparently we are starting over this year. How long this will continue, I do not know.

But what worries me is we might go this week and next week and then comes a week off. Then we are going to be into other matters. Pretty soon the INF Treaty is going to come along. Clearly the trade bill has to be considered. The Canadian trade bill is going to come after that. We have got the catastrophic insurance conference report that will come before us. And there is not going to be time for real campaign reform to be considered if we persist in the direction we are currently going. I believe that is very, very unfortunate. I just do not see where it is going to fit.

Now, as we all know, there have been meetings arranged between four Senators on the Democratic side and four Senators on the Republican side. I had something to do with urging the setting up of those conferees, if we want to call them that. They have been trying to reach some kind of an agreement, but the sticking point has been this public financing and the Republicans have made it clear that they are not going to change.

Well, if that is the situation, then the legitimate tactic is to try to impose cloture. But there is no reason in the world to believe that anything has changed from last year.

Last year, we had 54 Democrats total. Two of those voted against cloture, so that makes 52. A total of three Republicans voted for cloture, so that made 55. And that is it. That is the high point.

If every single Member of the Senate is present, that is what the vote is. Now, if anybody knows of any changes, they certainly have not brought it out.

To the best of my knowledge, there have been no changes. Certainly—and I have not made a canvass of the Republicans on this—my belief is that there have been no changes. Maybe there have been some changes on the Democratic side, but I have not heard of them.

So, thus, it appears, particularly under the present situation with the Senate's two Presidential candidates who have voted for cloture in the past out campaigning—that the vote for cloture would not be 55 but would be 53, perhaps one less if somebody were out for unavoidable reasons such as illness or recovery or whatever it might be.

So cloture is not going to be invoked. And, thus, I feel very strongly that we are in a good position to move ahead and achieve some reform.

I mentioned four points: the limitation on the millionaire's loophole; outside contributors; limitations on the PAC's; and soft money disclosure, and perhaps limitations. All of those are very, very important items that I wish we would take up.

Now, I have here an article on campaign finance reform which is in a printed booklet entitled "Commonsense." Now, who publishes Commonsense? Well, it turns out it is called A republican journal of thought and opinion, published by the Republican National Committee and its Chairman Frank Fahrenkopf, right here in Washington, D.C., and the Republican National Committee can be identified as the national operating arm of the Republican Party.

This article is entitled "Homogenizing Congress." It is written by BILL THOMAS, a Representative from the 20th District of California.

I think it touches on this subject and I will just read some of the paragraphs in it.

During the past decade, political reformers have enacted numerous measures to purge Federal election campaigns of various evils, both real and imagined. These reforms vastly changed the landscape of political campaigns but not always with predictable results.

That certainly is true.

While frequent attempts to regulate political participation have yielded some of the desired outcomes, they have also affected the kind of candidate who can succeed in this new environment. This unintended consequence holds considerable implications for the future of our representative democracy and raises the question: How healthy are such frequent campaign reform crusades for our political system? As the 98th Congress considers further campaign finance limitations and the possibility of taxpayer-financed congressional elections, policymakers should pause to consider the unintended effects which past reforms have spawned.

It is interesting to note that in the legislation we have before us, S. 2, only deals with Senate campaigns. It does not deal with House campaigns. Now I think any reforms that are enacted should deal with both.

I have heard it said that if the Senate enacts these limitations, then

the House would follow. Well, I do not know whether that is true. I wish that S. 2, which as I say I supported, were broadened to include the House because what we are seeking in all of this legislation is fairness, equity. You can well have a situation where representative candidates, that is Members of the House, have been able to spend large sums of money getting themselves known in reelection campaigns, particularly in relatively small States where they are without limitations. They, in their reelection campaigns, can get well known all over the State to a greater degree than a senatorial candidate who is limited in his campaign could. And then, lo and behold, one day the Representative decided to run for the Senate. And, having achieved this far greater exposure, he branches out and takes on the incumbent Senator who has been restricted.

Now, to me, that does not seem very fair. I hope that in any campaign reform, whatever is finally done, that it is broadened to include the House. I know the argument is put forth: "If you ever try that, they will never pass it in the House." However, if that is true, then what makes us believe that if we pass it the House will subsequently pass it themselves. That is taking a chance.

So I do not see why both bodies are not included. If we can work out a formula to restrict the number of dollars that a senatorial candidate can spend, why can we not work it out the same for House Members? And, frankly, the House situation should be a lot easier since each of their districts is relatively similar in population. In the United States now it is probably closer to 500,000 in each representative district. That is man, woman, and child, not voters.

The proliferation of political action committees (PACs) is a prime and well-documented example. PACs are direct products of the limits slapped or individual contributions by the 1974 campaign finance law. Faced with this restriction on their participation in the political process, individuals banded together and continued to raise funds and contribute to candidates, all within the confines of the new law.

Some groups, however, have not exercised all their options under the laws which they themselves, in many cases, helped to create. Now that their earlier efforts to contain the so-called evils of money in campaigns have been largely superseded by public support of PACs, these groups want to make further adjustments in campaign law. They refuse to face the reality that a politically-active public will continue to be so—despite further regulatory efforts.

Attempts by reformers to "bottle reality" through various strictures and complicated regulations have had consequences beyond the PAC phenomenon. Not only have the type and manner of public participation changed, but the characteristics of elective candidates for Congress are also undergoing a metamorphosis, and campaign reforms are partly responsible. Other factors have contributed to changes in the kind of candidate who is more likely to be successful today, but campaign reforms are chief among them. If current proposals to limit campaign contributions and to establish taxpayer-financed congressional campaigns are successful, I believe such efforts will serve to accelerate the trends which are reshaping the "electability" traits of Members of Congress.

Some tremendous changes in the demographic profile of the House of Representatives are already evident. The average age of House Members, for example, is considerably younger than at any time in history, a trend set in motion by the 93rd Congress which convened a decade ago. House Members of the 93rd Congress averaged 51.1 years of age. The average for today's 98th Congress, however, is 45.5 years and the median age of an entering Member of Congress is now less than 40 years.

Other demographic trends were set in motion by the 93rd Congress. For the first time in the Twentiety Century, Blacks represented southern constituencies, and Representative Barbara Jordan of Houston became the first Black woman to represent a southern congressional district. Another maxim of southern politics was broken in that election—for the first time since Reconstruction, Mississippi sent two Republicans to Congress and Louisiana elected its first Republican congressman in this century.

These trends are continuing in the 98th Congress. There are 37 Jewish Members, an increase of four from the 97th Congress. The number of Black Members increased from 19 to 21. There are 11 Hispanic Members, an increase from seven in 1981. The 98th Congress began with 23 women—the same number that was present at the end of the 97th Congress, which started in 1981 with 21.

The snapshot then of the current Congress shows a much younger, seemingly more diverse group of individuals. Nevertheless, in many respects this new group is more homogeneous than past Congresses. The typical new Member of Congress is wise in the use of electronic media; better educated in the complicated myriad campaign rules; more willing to wage long campaigns, as well as repeated campaigns, in order to get elected; and, is more independent of political party support than ever before. A pipe-smoking Millicent Fenwick or a flamboyant Bob Eckhardt will become increasingly rare in Congress. Instead, the typical Member of Congress is becoming more and more a product of both an electoral and technological revolution which has taken place in the last decade.

Well, I am not so sure I agree with that conclusion. I think that as times change, so the approaches of the candidates are going to change. And I do not think that the, if you want to call it, rugged individual, those who are different via the pipe-smoking Millicent Fenwick or a flamboyant Bob Eckhardt are ruled out from taking office today. Indeed, in the past they stood out as individuals because there were not many like them, and I think similar individuals could be elected today.

Now, here we address the problem of spending limitations.

Now, here he addresses further limits: decline of parties, splintering of consensus.

How will the proposals for further limits on campaign contributions and for taxpayer-financed elections affect the pool of candidates from which Congress is chosen? One immediately evident result is that candidates would become even less dependent on political party support and influence in their campaigns. With the parties placed under strict contribution limits and with public money available, the traditional roles of political parties—formulating public policy and recruiting and electing candidates who share their broad philosophies—will become obsolete or, worse, meaningless.

Nor will candidates necessarily forge closer ties with their district constituencies under public financing. I believe the opposite would result.

It is not me speaking. It is the author.

Candidates would no longer be required to seek periodic support in the form of campaign funding primarily from their constituents; rather, they would rely on taxpayer funds channeled from Washington, D.C. To the extent public financing permeates congressional elections, the public interest would become further and further removed. By "public interest" I do not mean that amorphous label which is so often invoked by proponents of campaign reform, but the public interest as represented by people with a wide range of concerns and opinions, who seek to participate in the political process by supporting candidates who reflect their views. The linkage between this public interest and the Member of Congress would be broken by public financing of campaigns because taxpayers (most of whom oppose such plans) would have no control over who received the funds.

Well, I think that is a scare line that I do not subscribe to. As I say, I have supported public financing and there may be reasons against it and I think the strongest reasons have been set forth by the junior Senator from Kentucky, that it just plain does not work; that it is expensive. One of his points is that it encourages a proliferation of extremist candidates. That may be. There is more bureaucracy on the Presidential level. The figures he cites, I was going to say, I find astonishing. One out of four campaign dollars goes to lawyers and accountants.

In the 1980 Presidential race, $21.4 million was spent on compliance alone. That is as much as the most expensive race in Senate history. Campaigns must process each contribution—again we are talking about the Presidential system now—through 100 steps.

I do not know how he ever gets up to 100 steps, but in any event it is complicated. Political decisions have become accounting decisions.

Well, all that may be true, but I do not subscribe to the points that are made here by Mr. THOMAS in his article in Commonsense where he sees the dangers of Federal financing of congressional—in this case Senatorial campaigns that would distance the candidates from their constituents. Because they do not raise money from their constituents any more. They just

go to the public trough in Washington, DC.

There may be objections that can be raised to campaign financing, but I do not think that is one of them.

Now, I do commend to those who are interested in the whole subject, this booklet which was published in December of 1983, just 4 years ago. There is a rather interesting description of major campaign finance reform legislation, which deals with legislation introduced by Senator Paul Laxalt, whom we all remember so well, and Representative BILL FRENZEL and others.

Now, just so we can get a broader view of this, let me commend to individuals who might be interested, an article on page 77 of this booklet, "Major Campaign Finance Reform Legislation," where it deals with legislation introduced by Senator Mathias in the House, JIM LEACH, DAN GLICKMAN, and DAVID OBEY, all Congressmen; legislation introduced by Representatives MATT MCHUGH from New York and BARBER CONABLE and the legislation that I talked about earlier namely, the legislation that was the foreruner of S. 2, Senator BOREN's legislation.

That bill limited—just to touch on the Senate—limited Senate candidates' acceptance of funds from all multicandidate committees to an amount varying with the population of the State ranging from $75,000 to $500,000.

All right. There are a series of other articles on that subject there.

Now, let me turn once again to the points raised by the junior Senator from Kentucky, in why he feels so vigorously about the campaign spending limitations as they would apply to the U.S. Senate races. He uses, as his takeoff point, what is happening on the Federal level for the Presidential campaigns. He makes the following points:

First, addressing solely the Presidential system, which most of us think has worked relatively well. And I will say that that has been my view also. But one has to pause to think when we read these points, that the junior Senator from Kentucky has made, which I am sure have been carefully researched: $40 million has been spent in the last 2 months in the Presidential race. Now, this is a document that is dated February 1988; $40 million has been spent in the last 2 months. Since the funding of Presidential elections began and apparently three elections have been federally funded, one-third billion dollars, that is $330 million has been spent on these national campaigns.

Well, I do not think we have to say it is one-third billion dollars. It sounds like a lot more than $330 million. So, $330 million has been spent on three Presidential races. I do not think that sounds like so much.

The next point he makes is the proliferation of extremist candidates. A half a million dollars went to Lyndon LaRouche in 1984; $200,000 to psychologist Lenora Fulani to run for President. I am not familiar with Lenora Fulani's campaign for President. And if she received $200,000, I am amazed. I suppose there should be some qualification requirements, whether it is signatures or individual fundraising, before one is entitled to receive the Federal money. And indeed that is true. Ms. Lenora Fulani must have raised substantial sums by herself. You have to raise a certain number of dollars from most of the States before one qualifies for the Federal funds.

But I must say I do worry about the extremist candidate charge. Would that take place under the legislation S. 2 that I have been supporting? Are we encouraging extremist candidates to get into the races?

One of the great virtues, it seems to me, of American democracy, as it has evolved—is not provided for in the Constitution—is the fact that, though in the two-party system the candidates tend to move toward the middle, toward the moderate center whereas in the multiparty systems you have candidates on the fringe who achieve excessive power unrelated to the amount of votes that they have been able to obtain. We have a winner-take-all system and that encourages moderation. Every candidate has to go out and appeal to as broad a spectrum as possible, whereas in those countries that have proportional representation, which I consider to be a disaster, fringe candidates make demagogic appeals to limited sectors with the belief, and often the realization, that by this appeal to this limited group, which might be only 10, 12, or 14 percent of the people, that the individual will ensure, through the proportional representation system, that he or she can be elected to the parliament or whatever the governing body is.

We have not had that in our country and I am deeply concerned that we might. I do not want in any way to encourage it.

So this charge by the distinguished junior Senator from Kentucky that there will be a proliferation of extremist candidates as a result of the public financing of senatorial candidates may be a serious one.

I would like to hear further discussion, I might add, and I do hope that the junior Senator from Kentucky, who undoubtedly will be addressing this matter in the future on this floor, will address that particular point. It is one that I would worry about. However, as I say, it has not come to my attention before and has not been enough to discourage me from support of S. 2. But I would like to hear it addressed to a greater extent.

I see that the distinguished junior Senator from Alaska is here who undoubtedly has some views on this subject. I would be glad to yield the floor to him.

Mr. MURKOWSKI. I thank my friend from Rhode Island.

Mr. CHAFEE. I thank the Chair.

Mr. MURKOWSKI. Good morning, Mr. President.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Alaska seeks recognition in his own right?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. I thank my colleague from Rhode Island whom I wish a good morning, and, Mr. President, good morning.

The PRESIDING OFFICER. Good morning.

Mr. MURKOWSKI. Obviously, I find myself before this body at this early hour with the issue before us of S. 2 about which this body has heard a good deal for the last many hours. Personally, as a Senator from Alaska, I would be pleased to take this opportunity to educate my fellow colleagues on the merits of an issue which is of great interest to our Nation, of great interest to the State of Alaska; that is, the issue of opening the Arctic wildlife reserve to oil exploration. But in the spirit of the time, for the time being at least, the Senator from Alaska will stay on the subject of S. 2 and attempt to highlight for the benefit of the President the specific points that are of grave concern to those of us on this side of the aisle.

One of the major concerns that often is not brought out on the merits of public financing is just what is it going to cost the taxpayers of this country? Well, an estimate that has come into my hands on spending limits and taxpayers' financing obligations suggests that in the last 2 months alone over $40 million has been expended in public campaign financing costs, and over one-third billion dollars in the last three elections alone.

The question of proliferation of extremist candidates, the issue of wasted dollars, is very much appropriate for this body to reflect on. It is estimated that in the 1984 campaign one-half million dollars was given to Lyndon LaRouche, and approximately $200,000 to psychologist Leona Fulani, who at that time was a candidate for President.

So, Mr. President, it appears that we are contemplating building more bureaucracy and not more democracy. An interesting note for those of my colleagues who happen to be of the legal profession is one out of four campaign dollars, that is dollars that are

given by the taxpayers, goes to lawyers and accountants. It is estimated that in 1980 in the Presidential race $21.4 million was spent in compliance alone, as much as the most expensive race in the Senate's history.

Campaigns must process each contribution through nearly 100 steps. So in reality, Mr. President, political decisions have also become in this bureaucracy accounting decisions. We have seen under the experiences that we have had unprecedented growth in campaign spending under "limits." Overall spending now is increasing at the same rate as before spending limits and taxpayer financing. The difference is that far more spending now is done outside legal limits and disclosure requirements and there is less accountability.

Some would suggest, Mr. President, that the system mandates that every candidate becomes a cheater. Figures indicate that every major candidate since 1976 has been cited for serious violations of the law. Needless to say, bad press and large fines resulted. One candidate spent $2 million in a State with a $400,000 limit.

The Senator from Alaska hopes, Mr. President, that the significance of these figures even at this early hour may penetrate the open minds of those who are still undecided on the issue and would reflect again on the merits. So as we consider the realities of what S. 2 mandates, it is corporations and labor that help circumvent limits by paying office rent, phone deposits, and giving overly generous loans.

There are those who would suggest that this provides for growing disrespect for law and the election process. Campaign managers report that the first planning priority is to identify an advanced way to circumvent limits and rules. One observer, a campaign staffer, declared this whole FEC thing is a sham. It appears to be "your job" to find every loophole. We have special interests that will control by spending outside the law. In the 1984 general elections, special interests spent $25 million to oppose President Reagan, this represents 62 percent of Reagan's $40 million spending limit; and nearly half the money spent in the 1984 general election, $72 million, was outside the candidates' direct control.

At least one-fourth, Mr. President, of all the money spent in Presidential races is unrecorded, unlimited, and unaccountable.

In soft money, which we have heard a great deal about, spending is roughly tripling under each election cycle. Races resemble uncontrolled corrupt politics of a pre-reform era.

Another thing that should concern us all, if we reflect on the merits of public taxpayer financing, is what effect has it had on the voter? Well, statistics tell us that voter turnout has stagnated; 55 percent in 1972, and in 1984 it is down to 53 percent, a 2-percent decline. Some have suggested that campaigns have lost their identity, they have lost their enthusiasm, they have lost their imagination. Spending limits and taxpayers' financing have shut down local campaigning, and the unique attribute of American politics—that is the grassroots democracy—has to a large extent died.

Mr. President, I have a number of references in regard to status of S. 2 because S. 2 is really not the answer. The Senator from Alaska is in favor of campaign reform but not at the expense of the taxpayer.

The junior Senator from Alaska supports the efforts of this body to bring about this needed reform. But, Mr. President, it must be done in a fair and equitable manner. And this legislation, S. 2, is not the appropriate way to accomplish that reform.

As has been pointed out by a number of my colleagues and others that will follow me, the bill as currently written has many serious flaws. As I have stated, the legislation would initiate a system for using taxpayers' money in funding Senate elections. If a candidate violates voluntary spending limits, the money to combat excessive expenditures, make no mistake about it, would come from public funds raised through checkoff on probably tax returns.

The problem is that a true measure of national support for such financing is the tax checkoff for the Presidential campaigns. Only approximately 20 percent of all taxpayers annually "vote" to spend their tax dollars in this fashion. Eighty percent vote "No."

One would ask what if the checkoff system does not work? If the checkoff system does not raise sufficient funds, what is going to happen then? Why, it is obvious Congress is going to have to appropriate money, appropriate adequate money, for our own reelection effort. To me, there is something very wrong, very inappropriate about that kind of a situation.

Some have said in this debate there is an evil association with PAC's. S. 2 would allow candidates to continue to accept funds from political action committees. Only the total amount a candidate could receive from all PAC's would be capped.

Some are asking if PAC's really are the problem. Small voluntary contributions of like-minded individuals really make up a majority of PAC funds.

Does not this PAC process actually help to preserve the rights of individuals to freely choose the ways they want to participate in our election process?

Mr. President, I have mentioned soft money and S. 2 does not address this issue. We have seen union get-out-the-vote drives phone banks, et cetera, significant noncash contributions which are not accounted for nor from all appearances limited.

Now, under current law there are dollar limits on the size of contributions that can be made by political action committees or individuals. Additionally, there are strict reporting requirements for the candidates and large donors.

But as I have stated, there is little control of the soft money.

An example might be a labor union turning out volunteers to make telephone calls for a candidate or some advocacy group of volunteers with its members addressing and mailing letters or other organizations which might provide door-to-door canvassing.

These are not always reported as contributions. Yet, they clearly have a monetary value.

Also, consider third-party indirect assistance for a candidate. Say, a teachers' union, and NEA mails a message to its members and runs newspaper ads against one candidate for another. The question comes up as to whether or not the dollar value of that effort should be included in the limits placed on a campaign.

Many of these third-party interest groups have a nonprofit status. They enjoy special mailing rate privileges. Should not a campaign reform plan include the registration of these privileges when they are used for campaigning?

The Senator from Alaska thinks that they should.

This side of the aisle may be somewhat successful in raising money, but I think if we reflect on the records and the figures we have available the other side of the aisle is just as successful at raising the soft money.

Now, Mr. President, let us talk about spending limits. As we have all heard limits would inhibit any party's ability to compete in what is traditionally a one-party State. Also, the limits would hinder candidates who have to mount a campaign in a State such as mine, in Alaska.

The limits are based on a State's voting age population. My State may have one of the United States smaller populations. Yet the area of my State is two and one-half times the size of the State of Texas. I know that creates a little competition as we reflect on the size and magnitude of our home areas but in reality in Alaska the transportation costs alone are extremely high. Just to get out and meet the voters in my State requires an expenditure of thousands and thousands of dollars.

Finally, Mr. President, where does the news media fit in on a reform of the campaign process? For instance, is there a dollar value that could be assigned to a paper's declared editorial

support for a candidate? A rather interesting speculation, Mr. President.

Should the value of that support be filed with the Federal Elections Committee just like an oil company's employees are required to file their PAC contribution? Or, Mr. President, does our Constitution intend that newspaper publishers be exempt from the limit placed on other individuals?

These are among the questions that I think deserve more attention by the public.

Mr. President, I would like to take this opportunity to share with those of my colleagues who are up this early hour some of the letters I have received from around the Nation in opposition to S. 2. The first is from Dr. Geraldine Morrow of Anchorage, AK. It reads:

DEAR SENATOR MURKOWSKI: The American Dental Association has notified me of the seriousness of S. 2, the Senatorial Election Campaign Act of 1987 and its impact on the amounts of money political action committees could contribute to candidates. Along with the information they sent a cosponsor list. May I express my deepest appreciation to you at not seeing your name on this list? There are many of your colleagues who have offered cosponsorship. Hopefully your missing name indicates your opposition to this proposed legislation.

I want to speak to opposition and sincerely urge you to continue in nonsupport.

Currently there are 4,000 political action committees representing all interests in our country. PAC's have proven effective in aiding candidates, yes but also in greatly increasing citizen interest and involvement in government and the political process.

The alternative proposed—partial public financing—does just the opposite, and may, in fact discourage citizen involvement because publicly contributed funds cannot be earmarked to a favored candidate.

One of the promoting ideas of this legislation is alleged political action committee abuse. Current disclosure laws assure full knowledge by the public of all PAC activities. Protections are in place. If abuses are discovered, certainly they should be addressed. But the solution should not be elimination of the incentives for citizens' involvement.

How could concerns with campaign costs be appropriately addressed? Dr. Morrow suggests the following: The creation of an independent commission to be established to study the overall issue. Items suggested for the study would include the length of campaigns, should the period of fundraising basically be limited, the overall cost of elections. Should candidates be permitted to retain unused campaign contributions? Should elected officials continue to be permitted to establish PAC's in addition to those used for their own campaigns so they can assist other candidates? And can the role of major political parties be strengthened?

Once again Dr. Morrow states:

I do acknowledge, Senator Murkowski, your restraint in this matter and I am grateful for your understanding of the seriousness of a greater concern.

I would strongly urge your opposition to this legislation and sincerely appreciate your ongoing efforts.

Best regards,

Dr. MORROW.

I think the point in this letter that strikes me is how the involvement of citizens have been encouraged in the electoral process through the concept of the PAC's.

We have, of course, seen letters come in from the U.S. Chamber of Commerce, the National Right To Work Committee, organizations, corporations with PAC's such as Texas Industries, the Eaton Group. We have also seen an expression of genuine concern on the part of the public with regard to the need for campaign reform.

But as we reflect on the type of campaign reform that is in the interest of the public it is important to understand the reality of the issue of soft money, Mr. President.

I would ask my colleagues to reflect on the soft money issue and as to why they do not feel it is appropriate that this issue be reported.

There is a problem of inequity when you have one candidate running in an election and reporting his funds in the conventional manner and an opponent who has the benefit of an organization working for him through the contribution of personnel, phone banks, and letter writing. These efforts are very effective as I know from personal experience in my own campaign of 1980 and later in 1986. This is an issue that in fairness should be addressed. That contribution can be identified in dollars and cents. It can be identified in the same way in which under the procedure established here in the Senate one addresses the reimbursement of transportation in a private aircraft to accommodate a Senator's schedule. Under our rules, the appropriate contribution is determined to be equal to a conventional first-class fare on a commercial airline between two points. It is quite possible to ascertain what it would cost to hire a number of people, 10, 15, 20, whatever, at an hourly rate, rent phones, pay the installation costs, and add up the number of hours that the particular function, telephone, polling, a mail-out costs is performed, and then file a report on that cost with the appropriate reporting agencies.

Now, this, Mr. President, seems to the Senator from Alaska to be an equitable and appropriate procedure. It is unbelievable to the Senator from Alaska that some of my colleagues have a difficulty with the issue of soft money. I look forward to those who would care to address that particular aspect of S. 2 to enlighten me a little further as to just what the difficulties are with a declaration of the soft money issue.

Now, we have seen in this particular issue the effects of an organization called Common Cause, a rather interesting group in our country. It is a special interest group. It claims approximately 280,000 members nationwide. It is an integrated entity, enjoying a status under the 501(c)(4) tax-exempt provision under the Internal Revenue Code. It has placed legislation changing financing laws on the top of its legislative agenda.

The Democratic leadership and all but two of the Senate's 54 Democratic Members, I understand, support its call for taxpayer financing elections and spending limits in congressional races. It is no secret that Republican Senators view the bill as nothing more than a political ploy by our friends across the aisle to lock in their control of the U.S. Senate. Not surprisingly, given the high partisan stakes, the bill faced tough going, with Common Cause and the Democratic Party unable to break a filibuster, a record up to this time after we have had, I believe, a record of seven cloture votes.

Now, Common Cause's role and that of the Democratic Party in this debate has yielded communications that are the subject of complaints that have been filed in various parts of the country. Common Cause, as we have seen in various areas, has seen fit to take out a series of full page newspaper ads against some Republican Members of this body not supporting Common Cause's position on S. 2.

The feeling of the Senator from Alaska is that the aim of Common Cause is obvious. Since Republican Senators who are the subject of the ads have not wavered on this point, Common Cause wants them defeated in the upcoming 1988 elections so that the makeup of the Senate will have fewer Republicans.

In addition, Mr. President, Common Cause has taken out an advertisement against the Presidential candidacy of our own leader, Senator ROBERT J. DOLE. And this occurred at the height of the national Presidential primary season which we are in.

To this end, Common Cause is expending substantial sums in an attempt to weaken the electoral system and, in my opinion, the strength of certain Republican Senators facing election in 1988. The ads are an attempt to affect the 1988 senatorial elections so that the special interest legislation pushed by Common Cause and benefiting the Democratic Party can pass this body.

I feel that the FEC needs to investigate to determine the extent of Common Cause's coordination of its advertising efforts with those who are planning the policy in the Democratic

Party's Senatorial Campaign Committee.

We have seen ads, as I have referred to before, on standing Members of the Senate. The text of the ads, which are similar, demonstrate why they are highlighting reportable expenditures whose purpose it is to influence Federal elections. The ads we have seen identify a specific Senator running for election in 1988 and criticize him for lack of integrity if his views are opposed to those of Common Cause.

Now, the ads that we have seen are from newspapers, either published or widely circulated, and they depict Republican incumbents running in 1988. The ads that I have seen make repeated references to "congressional campaigns" and "candidates" and suggest that those who do not vote Common Cause's way are somehow "fundamentally corrupt."

Now Common Cause is obviously making these expenditures in the hopes that voters will be swayed. If the aim was to make Common Cause's views known to the Senator, a mere letter would certainly suffice.

Now ads supporting Democratic Senators facing reelection in 1988 contained similar factors demonstrating why they should be reelected. Of ads supporting various Senators, one praises a Senator for voting the right way on Common Cause's bill. The ads ran in newspapers published in the States where Democratic Senators were facing election or reelection in 1988. The ads compare these Senator's positions favorably with what they might get if someone else was serving the voters. The ads make repeated references to congressional campaigns and candidates and suggest that the only way to work toward restoring honesty and integrity in Government is to compare the merits of the Senator supported by Common Cause and the one who is not.

Now, Common Cause's aim is obvious. It is to tell the voters in the Senators' States that these Senators who have the support of Common Cause are worthy of the support of the electorate. If the aim was to tell the Senators that they were doing a good job, why Common Cause could have written a letter.

The ad targeting our own Senator DOLE was published in the Washington Post, no stranger to this body, on January 25, 1988. It was done right in the heart of the crucial nationwide Presidential nominating season. The ad is a reportable expenditure since it is plain wording discussing Senator DOLE's Presidential candidacy and its funding.

The ad makes reference to the following. "You are also saying you oppose S. 2 because you object to its spending limits and public financing provisions. Yet when it comes to your own bid for the Presidency," referring to Senator DOLE, "you have accepted spending limits and more than $5 million in public funds to advance your campaign." This ad directly criticizes an ongoing political candidacy and is paid for by an incorporated entity.

Now, Mr. President, this is precisely what the Federal Election Campaign Act is supposed to regulate and prevent.

It is my contention, Mr. President, that Common Cause ads are designed to influence Federal elections. The Federal Election Commission has developed a test for whether this sort of communications are subject to the FECA, its reporting requirement as well as its limitations.

In its ruling, the Commission has consistently taken the position that expenditures are subject to the act where they are made for the purpose of influencing a general election to depict a clearly identified candidate and convey an electioneering message. These ads by Common Cause fall squarely within the articulated test.

Common Cause, perhaps because it feels it enjoys a position of moral superiority as a 501(c)(4) corporation, has chosen to ignore the legal tests.

Nonetheless, Common Cause's actions are designed to influence Federal elections under the FEC's tests. These ads are paid for by a corporation. This, Mr. President, is against the law. The FEC needs to enforce the law and make Common Cause play by the same rules as other groups attempting to influence Federal elections.

The Commission addressed this issue in Bulletin A01985-14 and concluded that expenditures by the Democratic Congressional Campaign Committee were reportable expenditures allocatable to each candidate who benefited from the communication under the 11 CFR 1061.

The proposed communication at issue identified by name specific Congressmen and would go to part or all of the districts represented by the identified officeholders. The Commission determined that the communication, either with or without a partisan "vote-Democratic" statement, would be subject to the act's limitation. In reviewing the communication's language, the Commission looked to the requirement set out in the advisory opinion 1985-14, Federal Election Campaign Finance Guide, paragraph 5766 (1984). In that advisory opinion, the Commission concluded the act would apply where the communication both depicted clearly identified candidates and conveyed an electioneering message. Electioneering messages, according to AO 1985-14, which was cited in *United States* v. *United Auto Workers*, 352 U.S. 567, 587 (1957) includes the statement designed to urge the public to "elect a certain candidate or party."

It is important to note, Mr. President, that there is no requirement in either of these two regulatory bulletins that the advertisement to be attributed must contain expressed advocacy, a term of art under the act.

Well, Mr. President, in AO 1984-15, the Commission recognized that an advertisement was attributable where it "effectively" advocated the defeat of a candidate.

In AO 1985-14 the FEC interpreted that particular ruling, stating the requirements that an allocable communication included an electionary messsage. On the facts of that particular case, the SEC identified clear electionary message in direct mailings which identified a Member of Congress and which were distributed within the Member's district.

Mr. President, the Commission reached its conclusion even though the question asked indicated that there might not yet be a Democratic candidate, either announced or qualified under the act, in the congressional district which received the communication at issue.

The next propounded by the Commission centered on whether the expenditures were made "for the purpose of influencing the outcome of the general election." As the FEC made clear in this ruling, expenditures made with a genuine election purpose count, regardless of whether a nominee has been selected or even clearly identified. And, as the FEC stated, whether a specific nominee had been chosen or a candidate assured of nomination at the time the expenditure is made, is immaterial.

Thus, Mr. President, Common Cause was contributing under the act, whether there was as yet a Democratic candidate opposing the Republican Senator criticized or a Republican candidate opposing the Democratic Senator criticized.

The proposed mailer examined included reference to "rhetoric" by a named political party. The Common Cause mailer does not make reference to any political party by name. This difference may not be significant. On one hand, the regulation does not state what aspect of the proposed mailer constituted an electionary message. It may be that the mailing as a whole conveyed an electionary message.

Similarly, the Common Cause communication conveys an electionary message constituting an expenditure under the act by Common Cause.

A proposed mailer included references to an election by its inclusion of a list of campaign contributions from, in this case, an oil group to the named representative. The Common Cause communication refers to the way our congressional campaigns are financed and that too much money is given to

candidates by special interest PAC's. Too much money is spent by candidates.

The ad also states obstructionist tactics, to preserve a fundamentally corrupt campaign finance system, have no place in our democratic process. And the ad further states that the Senate's integrity is at stake.

It asks the question: What will Senator X do? There are references to an election in which one way to restore the Senate's integrity would be to vote the named Senator facing reelection out of office, the Republican Senator, or leave the praised Democrat pending to the office.

Common Cause ads at issue are similar to the proposed communications in AO 1984-14 in several respects. The Common Cause mailer identifies by names specific Republican or Democratic Senators, just as proposed in the regulation referenced to named specific Republican Congressmen in its adversarial opinion request.

Communications criticized the record of the officeholder. The Common Cause communication criticized a Republican Senator for forsaking the integrity of the Senate if he does not vote Common Cause's way or praise a Democratic Senator for voting the Common Cause way.

The DCCC mailer criticizes named industries for views on culture, environment, oil industry or other issues. Indeed, Mr. President, the similarity of the Common Cause communication to those in the Commission's previous rulings is striking, to say the least. The ads involved an attack on or certainly testimony to the record and positions of a clearly identified candidate of the opposition party for a single office, an office to the U.S. Senate. Although made before an official nominee had been selected, Mr. President, by either party, the clear purpose and the effect of the ads concerning the Senators is to influence the general election since voters will not have an opportunity to decide between Democratic and Republican nominees until the general election. And the ad that I mentioned earlier against Senator ROBERT DOLE is, similarly, against his candidacy.

Commission rulings are unequivocal. A communication such as I have referred to, directed by Common Cause against the incumbent Republican Senators or in support of the incumbent Democratic Senators, comes under the act when it identifies by name the candidate under the act and argues either for or against his or her performance in office or position on the issues and is distributed to the voting constituency.

It is therefore felt that the Office of the General Counsel and the Commission should find that, indeed, Common Cause itself is in violation of the Federal Election Campaign Act.

Now, Mr. President, the merits of this particular debate, which have caused many of us to be up a good portion of the night, and I recognize my good friend from Kentucky, who is kind enough to listen intently to my statements, too, is something tired of this issue. It is the hope of this Senator that this particular evening session will not have been for naught, that something of a positive nature will occur.

But I think it is fair to say that between the two sides of the aisle we are, indeed, at a substantial impasse.

I think the references that I made, the organization, Common Cause, the particular position it has taken in the area of campaign disclosures, the reference to the issue of soft money, all bear on the matter of fairness and equity as we reflect on just how this body will reach a conclusion on some type of a compromise.

We have all reflected on the merits of this being the most deliberative body. I think the actions of last evening do not necessarily bear out the merits of deliberative and thought-provoking actions because I think there is room and it is appropriate that we reflect on each other's concern over election reform.

I do not think you will find, Mr. President, a Senator on this side of the aisle that does not support election reform. But, again, we are not going to stand and watch the Republican Party, as a consequence of the inequity as proposed in S. 2, be relegated to a minority in perpetuity. And that would certainly be the case based on a prudent analysis of the issue of the soft money.

Now, when we reflect on the issue of the Federal Election Commission and its responsibility in addressing the activities of organizations such as Common Cause, it is appropriate that the Federal Election Commission hold Common Cause and other organizations to the same laws as all others out there who are attempting to influence Federal elections. Exceptions that do not conform should be prosecuted on an expeditious basis to ensure that there are no additional illegal contributions that shape the elections in the interim between the time when the complaint is brought forward and election day.

We have all seen instances where the momentum of the charges grows the ability of the Federal Election Commission to address the irregularity is not timely and the damage is done, Mr. President. And it is very difficult to reverse that damage.

Mr. President, the law is quite clear. Organizations such as Common Cause must be held accountable under the Federal election law of this country. Organizations that spend to influence Federal elections must be aware that this will be viewed as a willful violation of the law requiring the FEC referral to the Justice Department or the imposition by the agency of remedial action proscribed in 2 U.S.C. 437g(d)(1).

So as we attempt in this body to resolve our differences, we must recognize that we have an obligation to the public to observe this process, and I trust not all of them are watching this extended debate because I am sure they would wonder just what this mature senior body is doing in its inability to reach a consensus on differences. Is it based on the pure political might of the numbers of one party against the other? Is it not conceivable that compromise is in the interest not only of the two-party system but of the public who, very frankly, expects a response that addresses the issue of equity and fairness?

It is really extraordinary, Mr. President, that we find ourselves at 8 o'clock in the morning on Wednesday having debated this issue all night, having had the extraordinary experience of the Sergeant at Arms proceeding with warrants for the arrest of Senators to mandate at quroum call. Obviously, we failed to reach a compromise and extreme measures have resulted, although I was not physically in the Senate at the time. It is my understanding that one Senator was brought in, carried into this Chamber by the Sergeant at Arms and his comrades—physically. And that presence constituted a quorum.

Further, it is my understanding that this particular Senator had already severely sprained his left arm. It may have been his right arm. In any event, that arm was in a cast, the fingers were in a cast. In the transportation which was a physical transportation, namely, the four gentleman from the Sergeant at Arms Office bodily removed the Senator from his office to this body, the process further injured that arm. And those Members who have been called out to come in for a vote requiring absentee Senators appear, one wonders in all due respect just how those actions will be perceived by those who observe the process of the U.S. Senate.

Obviously, there is a numerical difference within our membership, and the power and influence of the party in power is no secret. But are we not expected to be above this almost childish, immature ruckus? It is almost like a case of whose football is it really? And if you are not going to play the game my way, why perhaps I will take my football.

Perhaps that is not the best example of what occurred during the evening. But I think it is fair to say that it was the opinion of some that a very strong message be sent to those of us on the other side of the aisle.

I do not think it is any secret that we were all very much aware that we had reached a stalemate on the issue of S. 2, but to bring this body into that kind of arena hardly reflects on the best traditions of the Senate, and I think it causes us all to reflect not just on the issue of the inconvenience of being up all night but, indeed, on perhaps a more important issue, and that is the role of the Senate from the standpoint of its respect in the minds of the public for our ability to get on with the problems and the debate in a manner befitting of this body.

I think it is fair to say, Mr. President, that we departed from that last night, and that is indeed unfortunate.

We have an opportunity today. It is a new day. This Senator hopes that reason will prevail, that the leadership will again meet, that there will be efforts to sensitize each party to the concerns of the other as we look at the valid need for campaign reform in these United States.

Mr. President, there has been a great deal said, and there will be more. And those who follow this debate with any degree of finality are probably going to be subject to the same arguments being presented again and again in regard to the merits of either side. But it is a serious situation when we find ourselves unable to in reality reach such a compromise, and have to bring ourselves down to a situation where we stand before the President, stand before the television audience, those who perhaps have followed this for reasons that perhaps bear some examination as well, and find that we are still unresolved; that we still cannot reach a satisfactory conclusion.

In my State of Alaska, Mr. President, there is a genuine concern for campaign reform. It is evident in editorials. It is evident in evaluations from senior special interest groups that formulate public opinion. But I think it goes deeper. It goes to a reflection on why we as a mature deliberative body have to go to this extreme to resolve our differences.

I think, Mr. President, if anything undermines the credibility of this body, it is instances such as these where we subject ourselves to an extraordinary amount of not only self-examination but physical torture in one sense of the word. And one asks the question quite logically "What is it going to take to resolve such an issue?"

Well, we go back to the various points that we have. We go back and examine issues that are pertinent to this consideration, issues that deserve further evaluation. But the real key question is can we reach a compromise or will this body continue this process to mandate to the other side of the aisle just what the terms and conditions of campaign reform must be?

Mr. President, there is an article that has been included in the New Republic, and it is entitled "The Reform Fiasco." It is an expression by the author, Robert J. Samuelson, and it covers the issue of why campaign finance rules fail.

Mr. President, I would like to share a portion of this with you this morning.

Let me read as follows:

The United States invented modern democracy and has practiced it longer and more successfully than any other nation. For all its flaws, it works remarkably well. While mediating among the jumbled interests of a geographically, ethnically, racially, religiously, and economically diverse nation, it has preserved both freedom and stability. When asked about their political leaders, Americans (according to public opinion polls) often hold their noses. But when asked about their political system, they overwhelmingly express intense pride.

Any discussion of money's role in politics needs to start with these fundamentals, because the critics of the status quo do not simply argue that the current system of campaign financing is imperfect. Increasingly, they contend that it menaces the American democratic achievement itself. As Elizabeth Drew concludes in her short book, Politics and Money: "We have allowed the basic idea of our democratic process—representative government—to slip away. The only question is whether we are serious about trying to retrieve it."

To advance this argument is to shoulder a heavy burden. It does not suffice to demonstrate that money plays an important and not always healthy role in politics. No one has ever doubted that. Nor does it suffice to show that the current system is flawed. Almost everyone concedes that. The burden that Drew and other reform advocates assumed is to persuade that money has attained unprecedented leverage over government behavior. And more that there are possible reforms that would represent substantial improvements without aggravating current deficiencies or creating new ones.

Well, I think we would all agree, Mr. President, that the argument fails utterly.

The argument fails—utterly.

If Drew's is the reformers' best case, then there is no case. The Washington correspondent for The New Yorker (where most of this book first appeared). Drew has a reputation as one of Washington's most intelligent and reflective journalists. To judge from much of her work, it is surely deserved. But she has obviously made campaign finance reform a crusade, and this book is less reportage (though it involved considerable interviewing) than polemic. It lacks any balanced view of the influences that move legislation. Drew asserts or implies that money is the prime driving force, even while providing only a few instances where money played a role at all. There is no reference to the substantial amount of scholarship on campaign finance, including Herbert Alexander's comprehensive studies of the last six Presidential elections. Much of the evidence consists of quotations from partisans who agree with Drew or who make sweeping assertions that lack any historical perspective. And virtually none of this commentary is subjected to critical analysis.

There are two reasons, nevertheless, for treating Drew's tract seriously. The first is that it elicits agreement from large numbers of influential people. Many journalists, congressmen, and lawyer-lobbyists—all powerful opinion-makers about Washington—seem to accept that money is corrupting politics. Typical is this prepublication plaudit from Washington Post reporter Bob Woodward: "No one else has had the guts or the determination to open up this subject. Briliant reporting. As a reporter, I am embarrassed I didn't find this story myself."

Even if the "story" is untrue—which it is—its constant repetition gives the appearance of truth and shapes public opinion. Drew's New Yorker series is but one example of a general media drumbeat of criticism. (See, for instance, Mark Green's "Political PAC-man," TNR, December 13, 1982.) Played often enough and loud enough, the theme of corruption acquires respectability. It aggravates the very problem the reformers purport to be curing: the loss of public confidence in elected officials and governmental institutions. The aim, of course, is campaign reform.

And therein lies the second cause for concern. For the logic of campaign reform implies fundamental, not cosmetic, changes. It strikes at a basic constitutional tenet: free speech. If free speech includes the right to seek political influence, it involves the right to spend. The Supreme Court took this position in Buckley v. Valeo (a 1976 case challenging the 1974 election law), and it is simply common sense. If I am unhappy with my legislator, am I to be prevented from spending money in an effort to convince others of my position? If I want to influence my government, am I to be prevented from spending money to do so? And what more natural way than working to elect people who share my views?

Problems obviously surface. Representative democracy presumes to represent people, not dollars. Moreover, people do not speak only as individuals but also as organized groups—interest groups. And interest groups are unequal in size, wealth, and, usually, influence. This part of the problem is not new. James Madison recognized it years ago. Calling interest groups "factions," he argued that their power would be limited by natural conflicts and the mechanics of government. The division of power among two legislative houses and the executive and judicial branches would require compromise, groups acting "in unison with each other." But if the provisioning of money has now become so vital to politics that Madison's balance is lost, then irreconcilable conflicts arise among traditional values. Either free speech (including free spending) is compromised or the representative nature of democracy is eroded.

Drew is convinced that we have reached this juncture and, therefore, entertains radical revisions in free speech. She argues that we need to "redefine what we mean by 'freedom of speech,' and (to) uncouple the marketplace of ideas from the idea of the 'free market.'" In practice, she favors more public financing for campaigns and tighter controls on private campaign spending. Justifying these, she approvingly summarizes an argument made by former Solicitor General Archibald Cox, a chairman of Common Cause who has argued campaign law cases. Cox, she writes, "suggested that one way to deal with proposition that spending money equals free speech would be to say that there are lots of different kinds of expenditures, and perhaps money is speech in the instance of a person spending money to publish or broadcast his own thoughts, while it

is an entirely different thing when an organization raises money from all over the country and spends it to broadcast. The difference, he said, is that the money is collected nationally, and that it is used for much speech but few ideas."

A measure of reformers' obsession is that they have descended to these meaningless and essentially antidemocratic distinctions. Individuals may have a right to "free speech," but organizations (collections of individuals) may have a lesser right. Some speech is good, but speech devoid of "ideas" (whose ideas?) may not be. Organizations locally financed may be more deserving than those nationally financed. Happily, however, we have not reached the juncture that Drew and other reformers suggest. To be sure, the political system is changing—it always is and always has—but the changes have not demolished representative government, including Madison's safeguards.

No one seriously disputes that campaign (as opposed to legislative) politics needs more money than ever before. The critical questions are whether money's new role fundamentally distorts politics and the opportunities for representation and influence.

Depending on the standard of comparison, the amount of money now spent on elections is huge, reasonable, or small. In 1980, it totaled $1.203 billion, according to Alexander. Of this, almost half was spent on federal elections, $275 million for the Presidential campaign, and $239 million for congressional campaigns; the rest went for state and local races. As Alexander points out, the total equals about one-tenth of 1 percent of taxpayer money spent by government in fiscal 1980 ($958.7 billion)—which seems a small price—and only twice the advertising budget of Procter and Gamble ($649 million). On the other hand, campaign spending has outraced inflation and, compared with the recent past, totals are huge. By Alexander's estimates, campaign spending increased by 759 percent between 1952 (when it totaled $140 million) and 1980, while general prices rose only 210 percent; campaign spending increased 183 percent between 1972 (the total $425 million) and 1980 against a general price rise of 97 percent.

These increases stem from basic changes in the political system. Since early in the century, party control over the election process has steadily diminished, and this trend has accelerated sharply since World War II. Party organizations were once almost entirely responsible for the selection of candidates and the running of campaigns. Political competition occurred within the party itself. Candidates fought strenuously for the party endorsement or the support of party chieftains. With the endorsement came huge organizational support—the big city "machines" being the best examples—and the automatic votes of thousands and millions of intense party loyalists.

This system's disintegration is an ofttold story. Central city political machines crumbled before suburbanization and the assimilation of first-generation immigrants for whom the parties provided patronage and a sense of identity. Depression-era political loyalties faded as government embraced the welfare state and the electorate changed.

By 1980, two-fifths of the potential electorate was thirty-four or younger—that is, they hadn't been born at the end of World War II. Finally, party organizations lost their legal prerogatives. Beginning early in the century, primaries (the first Presidential primary occurred in Florida in 1904) undermined their ability to control candidate selection.

This turmoil produced a different style of campaign politics. Candidates were increasingly independent operators, shorn of well-oiled party organizations and reliable political loyalties. More voters considered themselves "independents," and the party attachment of nominal Democrats and Republicans weakened. Ticket-splitting increased and so did the importance of ideas and personalities in campaigns. To compete for voters' attention and allegiance, candidates relied increasingly on radio, television, direct mail, and newspapers; advertising now amounts to more than half the cost of most campaigns. To calibrate their media messages, candidates hired campaign consultants and the campaign consultants took opinion polls. All this costs money. Money—and all the things it can buy—has largely substituted for the lost organizational and psychological bases of campaign politics.

At the same time, government was involving itself in more aspects of American life. In addition to new social welfare programs, laws were passed affecting the environment, job safety, civil rights, pensions, product safety, and the handicapped. Programs were created to finance highways, mass transit, college buildings (and student loans), housing, scientific research and development, synthetic fuel plants, solar energy, hospitals, public television, and cultural events. Federal spending, as a proportion of the gross national product, rose from less than 4 percent in 1929 to more than 24 percent today; the number of pages in the Federal Register jumped from 2.355 in 1936 to 87,012 in 1980. As government became more narrow and detailed, so did interest-group politics. Groups mobilized to maximize the benefits from government programs or to minimize adverse side effects.

So there emerged, on the one hand, politicians needing more money—to respond to the new realities of campaigning—and, on the other individuals and groups wanting more political influence—to respond to the new realities of government activity. That political contributions and spending began to march upward together is wholly unsurprising.

The complexion and complexity of politics changed. Politicians reared under the old system reacted to the new pressures of money with disgust—a disgust amplified in the emotion-charged atmosphere of Watergate and the illegal contributions to the Nixon White House. Congress passed campaign reform laws and produced a crazy quilt of restrictions and practices:

—Individuals can give up to $1,000 to a candidate in each primary and general election. An individual can also give up to $20,000 to a political party and up to $5,000 to individual political action Committees (PACs). All these limits are subject to an overall individual ceiling of $25,000 in gifts annually.

—PACs can contribute $5,000 to a candidate per election, with no overall ceiling. Nor are there limits on how much an individual or group, including PACs, can spend on activities—for example, television advertising—to elect a candidate, as long as the spending (known as "independent expenditures") isn't coordinated with the candidate.

—Congressional candidates can spend as much as they raise, and there are no limits on how much a candidate can spend from personal funds.

—Presidential elections operate under partial public financing. In the primaries, similar individual contribution limits exist, but candidates can qualify for matching federal subsidies if they achieve a specified level of individual giving. Once they accept subsidies, though, they face an overall spending limit, $17.7 million in 1980. In the general election, both candidates are entitled to federal subsidy, and if they accept, they can't spend anything else. In 1980, the payment was $29.4 million each.

The restrictions are so intricate because some of the stricter limits imposed by Congress in its 1974 law were struck down by the Supreme Court—in the *Buckley* v. *Valeo* decision—as violations of the First Amendment. Individual contribution limits were upheld on the grounds that Congress could prevent the appearance of undue influence by contributors on legislators, but, at the same time, the court said that total spending limits—on "independent expenditures" by individuals or total spending by congressional candidates—would impair free speech. But if candidates accepted public funds for their campaigns (they could, of course, refuse), they then subjected themselves to the spending limits imposed by Congress as a condition for receiving the funds. That's why there are limits in Presidential, but not congressional, elections.

Whatever the limits, both Drew and Alexander agree that many are evaded and that the law's spirit is easily subverted. One escape involves "independent expenditures." In 1980, according to Alexander, 105 PACs and thirty-three individuals reported $16.1 million of this spending. Most of that ($13.7 million) was spent in the Presidential primary and general election, with Republicans benefiting from almost all of it. Typically, independent expenditures finance television, radio, or direct-mail advertising. The "New Right" National Conservative Political Action Committee is probably the best known user of independent expenditures.

Although this spending isn't supposed to be coordinated with the candidate, Drew shows that this separation can be—and probably often is—a sham. Anyone wanting to aid a Presidential candidate needs to know the candidate's latest poll results: that is, where the candidate is weak. Drew quotes Lyn Nofziger, the White House's former chief political operative, about how the head of an "independent committee" in 1980 could find out: "I wouldn't have to talk to Bill Casey [Reagan's 1980 campaign director]. I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem getting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick Wirthlin's [the Reagan pollster's] data."

Another easy evasion lies in the states. Federal election laws don't (and constitutionally can't) regulate contributions to state and local parties for state and local elections. But, as Drew contends, the line between local and federal activity is often thin or nonexistent. If the state party registers voters during the year of a federal election, is that local or Federal activity? When a local party increases television advertising—knowing a large turnout will help its congressional and senatorial candidates—is that local or Federal? Many states (California is one) allow unlimited contributions, so individuals can skirt the restrictions imposed by Federal law. The national political parties can then shift their funds to other states. Drew correctly argues that this and the effect of "independent expenditures"

mock the legislative intent of the 1974 law to limit spending in Presidential campaigns.

If easily evaded, the laws also have had perverse side effects. One probable consequence is an acceleration of campaign contributions and spending. By limiting individual contributions to candidates, the 1974 law almost certainly diverted giving to PACs. The few (mostly labor) PACs before 1974 had been established to abide by the prohibition, enacted early in the century, against direct campaign contributions from corporate and union treasuries. With separate organizations financed by separate contributions, the labor PACs—the best known is the A.F.L.-C.I.O.'s Committee for Political Education (COPE)—skirted the restrictions. But the PACs' legal status was ambiguous, and both labor and business—many large firms were terrified by the disclosures of illegal contributions in 1972—wanted their standing codified. The 1974 law did this. PACs subsequently multiplied like rabbits, from six hundred at the end of 1974 to about thirty-four hundred by the end of 1982. This created an entirely new industry of fundraisers. Whereas parties and politicians had been primarily responsible for fundraising before, now there are armies of PAC professionals nurturing whole new markets of contributors. Even considering the restrictions, then, the 1974 law probably raised the level of political contributions.

All this has changed the flavor and sociology of politics. Washington is awash in political fundraisers. Direct mail is a new high art of campaigning. Power has passed from party bosses and fabulously wealthy contributors to the shrewd operatives who can mobilize lots of contributors. To Drew, former Democratic National Chairman Robert Strauss brags: "There hasn't been anyone who can reach rich people the way I can." But the serious questions about money's effects on politics lie elsewhere. Drew knows the questions, but answers them with lax standards of evidence and logic.

One clear question is whether money systematically and permanently distorts elections. One difficulty in answering this is that no one can easily say what constitutes distortion. Elections can be free and fair without being equal. In fact, they are rarely equal. And money is only one factor—and not always the most important factor—promoting inequality.

Districts are often deliberately rigged to favor one party or the other. Well-known incumbents—with access to government contracts and power—face unknown challengers. Some candidates enjoy more party or interest group support; some candidates have a better press. Unequal contributions may sometimes offset other sources of inequality: for example, an incumbent's better name recognition. In the end, the voters still decide.

But, with money becoming more important, a showing that one party could clearly outraise and outspend the other, say by a margin of 3 or 4 to 1, would create serious doubts about whether the system is working as intended. This, however, is simply not the case. In 1982, Democratic candidates in House elections raised an estimated $93.9 million, Republicans $90.9 million; in the Senate, Democrats raised $62.2 million, and Republicans $54.7 million. Since 1976, Democrats have outraised Republicans in three of four Senate elections. But, generally, the differences have not been huge. (These figures exclude spending by candidates defeated in primaries, and the preliminary 1982 figures will probably be revised slightly downward later.)

Balance, of course, does not characterize all individual contests. But although money can sometimes be decisive, it clearly isn't the only thing that is decisive. In last year's congressional election, twenty-nine House incumbents (twenty-seven of them Republicans) were defeated. In twenty-one of those races, the winning candidate spent less than the loser. On the Senate side, winning candidates spent more than losers in twenty-four of thirty-three contests. But, in many close contests, the results were mixed. There were three open seats (California, New Jersey, and Virginia). All were won by the candidate who spent the most. On the other hand, two challengers won (those in Nevada and New Mexico) and both were outspent by the incumbent losers.

What this signifies is that, for all the hoopla about advertising, consultants, and polling, campaigns haven't yet deteriorated into scientifically programed combats where victory goes to the candidate with the largest war chest.

Challengers almost certainly need to attain at least a high-spending threshold to offset incumbents' name recognition; in almost all the 1982 races where Republican incumbents lost, their opponents' spending exceeded the Democratic average ($216,000). But once the threshold is passed, extra dollars don't necessarily guarantee extra votes; diminishing (even negative) returns can easily set in. Campaigns are usually crazy. Mistakes are made, money is wasted. Incumbents' reputations count heavily, but so does the national political mood. If money has changed campaign politics, it has hardly destroyed democracy.

Granting this, it's still possible that the sources of campaign money have become so skewed that legislative politics is corrupted. Votes may not be bought and sold at the ballot box, but on the floor of Congress. Because this is the core of Drew's case, you might reasonably expect her to devote the bulk of her book to its documentation. Not so. A relatively small part (perhaps 10 to 15 percent) of the book concerns itself with the allegedly decisive role money played in legislative outcomes. More to the point, campaign contributions alone hardly dictated the results.

Like most campaign reformers, Drew is most agitated by the rise of PACs, especially business and trade association PACs. It's true that these PACs have assumed a larger share of total campaign financing. But this is partially the doing of the campaign reform law itself. Aside from legitimizing PACs, it also restricted, probably unintentionally, even modest individual giving. Between 1974 and 1982, prices roughly doubled, meaning that 1974's $1,000 contribution was worth only about $500 in 1982. This almost certainly made it more essential for Congressmen to accept money from PACs and more attractive for politically active individuals to give to them.

Even so, PACs' total share of campaign funds has probably not risen as quickly as commonly assumed. Individual fundraising still accounts for the lion's share of congressional funds. In 1982, PACs accounted for about 29.3 percent of the total for winning candidates, up from 22 percent in 1976. In the House, the proportion rose from 25.6 percent to 34.2 percent; the comparable Senate figures were 14.8 percent in 1976 and 21.9 percent in 1982. And even these figures do not imply anything about legislative influence, because PACs are remarkably diversified.

They come in all sizes, shapes, and flavors. In 1980, corporate PACs accounted for about a third of the total and labor PACs for about a quarter but there were also PACs from trade associations (also about a quarter). PACs set up by independent political groups, agricultural cooperatives, and members of Congress (including Republicans and Democrats, liberals and conservatives). In total, Democratic candidates received slightly more from PACs than Republicans—$42.8 million against $36.4 million—because labor PACs favored Democrats by an 18 to 1 margin.

The acid test lies in legislation. What happens in Congress? An example of Drew's tunnel analysis involves oil provisions in the massive 1981 tax cut. As she portrays it, these resulted primarily from a "bidding war" for oil campaign contributions. Although the original White House tax bill contained a small pro-oil section, the Democrats sweetened it considerably. They hoped, Drew says, to reclaim their share of oil money, which she says had shifted heavily to the Republicans. The Republicans retaliated by sweetening the proposal even further. When the bidding was over, the bill contained tax relief, rising to $3.6 billion in fiscal 1986, for oil interests. Thus, money moves legislation.

There was indeed a bidding war, but of a different sort: over votes more than contributions. At the time, the House was torn between White House and Democratic tax bills. Both contained significant individual and business cuts, although the amounts and the distributions differed. The real question was power: could the Democrats control the House, where they were nominally the majority party? Once the House leadership decided it wanted a Democratic bill at all costs, the swing Congressmen who would determine the bill's fate acquired enormous bargaining power. And this group—consisting heavily of conservative Democrats, quickly labeled "Boll Weevils," and including many from oil states—used its power accordingly.

Of the forty-eight Democrats who ultimately voted for the Reagan tax bill (the Republicans ultimately prevailed), twelve came from Texas, Louisiana, and Oklahoma. In 1980, these three states accounted for 61 percent of U.S. oil production. Although Drew discusses the bill as if it benefitted only oil producers, much of the tax relief went to royalty owners, who own land on which oil is produced for a fee.

As one Hill staffer puts it: "Oil filters down throughout the whole district. Even people who don't have a direct interest in oil have an indirect interest, because of its economic importance. You get a political orientation that is pro-oil." But had the Democratic leadership contested the White House tax proposal with a philosophical alternative—conceding tactical defeat, instead of being bludgeoned into submission—the Boll Weevils would never have acquired negotiating leverage.

An even more important omission mars Drew's account. No one denies that independent oil producers have long used campaign contributions to further their own ends. But if anything, their influence was waning in the 1970s. For most of the decade, the government controlled domestic oil prices and prevented producers from reaping most benefits of higher world oil prices. When controls were finally removed—having been opposed by most economists and by Europe and Japan, which saw low prices feeding America's oil gluttony—Con-

gress limited producers' gains by imposing a windfall-profits tax in 1980. The entire 1981 struggle was to lighten, not eliminate, provisions of the windfall tax. The independent producers and royalty owners were fighting a rearguard action. They did influence policy—but only at the margin. In the 1981 tax bill, the oil provisions accounted for 1.5 percent of the total estimated revenue loss.

Most of Drew's other examples founder on similar complications. She cites the efforts of the American Medical Association to have Congress prevent the Federal Trade Commission from reviewing potentially price-fixing practices of professional associations. But, as Drew offhandedly notes, the A.M.A. proposal failed. She cites an effort by maritime interests to have more oil transported in American vessels. But that failed, too. She cites passage (also as part of the 1981 tax law) of the All Savers Certificate for savings and loans associations, a scheme she rightly describes as ill conceived. But its approval stemmed not so much from campaign contributions as other factors: first, the indentification of the savings industry with housing; and second, widespread fears that, if the industry wasn't helped, numerous bankruptcies would result. In case after case, the actual story is more complicated than Drew's story.

Her list also omits most major issues: Social Security, defense policy, Medicare and medical costs, overall economic management. No one has yet seriously contended that campaign contributions dominate policies in these areas, though surely "special interests" are involved. The issues are simply too entangled in popular passions, prejudices, and conflicting political philosophies. Individual defense projects may subsist on vested interests—nothing new—but overall defense spending clearly reflects other pressures.

Far from being "brilliant" journalism, Drew's reporting is precisely the kind that young reporters ought to be warned away from vigorously. It involves selective and misleading use of evidence, an overreliance on self-serving quotes, and an absence of critical analysis. She approvingly quotes a favorite one-liner by Senator Robert Dole, Republican of Kansas: "There aren't any Poor PACs, or Food Stamp PACs or Nutrition PACs or Medicare PACs." But, of course, there is a food stamp program, a Medicare program, and a substantial array of welfare programs. They were enacted because they were thought to be good ideas and, even if recently trimmed, they survive because people still believe them to be good ideas and because they have substantial constituencies.

Just because moneyed interests swarm all over Capitol Hill (and they do) does not mean that money rules the roost. In fact, PACs tend to check each other. When one interest organizes a PAC, competing interests do likewise. Even then, there are other checks on their power. One is the spotlight of public attention focused by the press, groups like Common Cause, and other politicians. Another is the obstacle course of enacting any legislation. American democracy is still working to accommodate conflicting interests and ideals. It is not perfect, but the Madisonian mechanisms have survived.

A charitable observer might convict Drew and fellow reformers of nothing more than sloppy analysis. Like Drew, most reformers are intelligent and well intentioned. Their numbers include energetic and reflective younger members of Congress. Nor is their unease and outrage difficult to understand. Their analysis springs from their nerve endings. Just as some people dislike fast-food restaurants, they detest the taste and feel of the new politics.

Drew does not like Washington's nightly fundraisers. She thinks it demeaning, degrading, and distracting that elected representatives spend their time dealing with anything so crass as money. She abhors the lobbyists infesting Capitol Hill with their wads of PAC funds. It simply offends her sensibilities.

But this distaste produces a mentality far more threatening to the national political tradition than the sins of campaign finances. The attempt to deny money's new place in politics is futile—just as it was futile to deny the emergence of big city machines—but the effort entails heavy costs. The most obvious is the smothering of campaigns in bureaucratic tedium. Alexander drily observes that federal election law increasingly resembles the tax law, with the Federal Election Commission "doing for politics what the Internal Revenue Service does for taxes." This, he notes, "increases the need for professionals—accountants, lawyers and other skilled individuals—to help candidates" comply with complex regulations, and it may "chill enthusiasm for citizen participation . . . since non-knowledgeable amateurs may easily violate the law."

A more serious defect is to undermine the moral authority of political leaders and the political process. If one lesson emerges clearly from Drew's account, it is the impossibility of enacting campaign reform laws that will not be speedily subverted. The ease with which the limits on Presidential spending were evaded—via "independent expenditures" and state party spending—underscores that. Because politics now increasingly requires spending (as opposed to volunteer efforts or organizational commitment), legislated restrictions invite circumvention. If spending through one channel is curtailed, it will simply pop up—with some delay and difficulty, perhaps—elsewhere. The capping of individual contributions and the skyrocketing of PAC spending is but one example.

To enact laws whose failure can be predicted is an act of extreme political and legal irresponsibility. It means government creates unrealistic and unmaintainable moral standards. Candidates and political professionals are immediately thrust into unavoidably compromising positions. They can strictly abide by the letter and spirit of the law—an act of high virtue and possibly political suicide. Or they can examine the law to see how it can be stretched, twisted, and avoided.

Perhaps, in the first flush of reform, virtue prevails. But as time passes and evasions become more widespread, the taboos against them diminish and the necessity of conforming increases. The participants in this process become steeped in either cynicism or guilt. When the public recognizes the gap between enacted standards of behavior and actual practices, esteem for elected officials suffers. Reformers fan the disillusion, declaring politics "corrupt" and proclaiming they are trying to reestablish the government's moral authority. Actually, they are unwittingly destroying it.

In practice, reform risks enactment of politically self-serving or destructive legislation. Current proposals follow two strands: limits on campaign spending, and public financing of congressional elections. If you are an incumbent, you have an obvious interest in spending limits. This is not immediately apparent, because, on average, incumbents have traditionally raised and spent more than challengers. For incumbents to create a limit, then, seems a self-imposed handicap. But average results are not what matter. In most congressional elections, only a portion of the races (typically, many fewer than half) are genuinely competitive, involving either open seats or vulnerable incumbents. In these races, extra spending is one way—but not the only way—that a challenger might actually win. To choke off this possibility is to provide incumbents with extra insurance in a game where they already are overwhelming favorites. In recent elections, roughly nine of ten House members and seven of ten Senators seeking reelection actually have won.

The other extreme solution—barring private campaign spending and relying on public financing—runs an opposite danger. It subsidizes challengers, penalizes incumbents, and, therefore, risks unsettling the process of legislating. By trying to equalize spending, it deprives the incumbent of advantages—support by satisfied constituents, pleased interest groups—that a conscientious representative might reasonably expect. At the same time, it makes challenging more attractive by removing one large obstacle: fundraising. And, finally, it enhances the challengers' prospects of victory. No one can say whether more challengers would actually win, but, almost certainly, incumbents would become more obsessed—if that is possible—with electioneering as opposed to legislating.

Inevitably, Congressmen would seek to win the loyalty of groups that might finance independent election efforts on their behalf. This suggests new levels of sham, exertion, and influence brokering. Drew, among others, seems concerned that the current system of campaign finance claims too much of a representative's time and psychic energy. But public financing is likely to mean less continuity, reflection, and independence in government, not more.

One common proposal is to limit the amount of contributions a candidate could accept from PACs to, say, $90,000 for House candidates. It is not clear, of course, whether this would limit the influence of individual PACs. Suppose, for example, that I am on the banking committee and have received money from banking PACs. Suppose, then, that PACs for brokerage houses (whose interests often conflict with banks') want to contribute but I have already reached my limit. When my committee considers legislation affecting both banks and brokers, am I more or less beholden to banks than if I had accepted contributions from both sets of PACs? In any case, PAC restrictions seem likely to spur other campaign activities on the part of spurned groups. The most obvious are greater "independent expenditures" or more contributions to state parties.

Coping with these contradictions risks intruding on free speech, a subject Drew treats casually. At some points, she ambiguously suggests limits on political groups that, simply put, she just doesn't like. For example, she deplores the activities of the National Conservative Political Action Committee and the Congressional Club, a PAC maintained by Senator Jesse Helms, Republican of North Carolina. The massive activities of these groups, she argues, go "beyond political expression . . . they manipulate people's desire for political expression, and in a way that deliberately distorts the issues." These groups, she says, "are not the

same as grass-roots movements that form around an issue. These committees are highly skilled, directed organizations that use people's feelings about certain issues to gain influence.

This is a mind-boggling train of thought, NCPAC and the Congressional Club differ from "grass-roots movements that form around an issue," yet they "use people's feelings about certain issues to gain influence." Can anyone make sense of that? To follow Drew's thinking to its logical conclusion is to suggest rules for restricting what she believes is demagoguery (as opposed to legitimate political expression) and inappropriate "highly skilled, directed organizations" (as opposed to appropriate "grass-roots" groups). Somehow, one suspects, these are distinctions never contemplated by the Founding Fathers.

Ultimately, the cause of reforming campaign finances leads to dead ends because it clings to a primitive, unrealistic, and even undesirable view of representative government. "Special interests" is one of those over-used phrases that is simultaneously descriptive and deceptive. It is descriptive in the sense that the interests of these groups are usually narrow and often selfish. It is deceptive in the prejorative implication that the term naturally carries. The burden—and the glory, too—of modern American democracy is the proliferation of these groups. Their expansion is the natural result of the post-Depression growth of government spending and authority. If democracy is people's right to be heard on issues that engage their interests and emotions, then government's growth could have had no other effect. Because government interferes more, it is interfered with more. Because the nature of its intervention has become more narrow and detailed, so has the nature of the political reaction.

The inevitability of special interests and their political activism underlines the permanent importance of one campaign reform enacted in the early 1970s: disclosure of election contributions. Secret free speech is an illogical and almost comical concept. The disclosure of contributions not only exposes the motives of politicians to public scrutiny but also enables competing interests to mobilize. But, otherwise, most campaign reforms represent a futile effort to reverse irreversible trends. Supposing, against all logic, that the campaign activities of "special interests" could be curbed, would that end the problem? Of course not. It would simply intensify Washington lobbying and grass-roots campaigns to influence specific decisions. Banks' successful effort to repeal the withholding of interest and dividends may be a forerunner of this sort of effort.

More important, the prejudice against special interests strikes at the heart of the democratic process. One person's special interest is another's crusade. The function of politics is not only to govern in the general interest and to reconcile differences among specific interests; it is also to provide outlets for political and social tensions. People often accept governmental outcomes with which they disagree if they feel they had a chance to influence the process. In a nation as diverse as the United States, it is unhealthy to place too many restrictions on these outlets. The risk is making people believe that government is even more inaccessible and unresponsive than they already do.

(In late 1982, one Congressman described Congress's inability to revise the Clean Air Act to Drew this way: "The stalemate has been caused 50 percent by industry and 50 percent by environmentalists. Congressmen on the committee say, 'Hey, do we really have to act on this this year?' ") On the other hand, there looms the sort of pervasive contradiction that compels government to act in ways that are ultimately self-defeating. The clearest illustration is the tax system: the proliferation of special tax provisions has reduced public confidence in the system, while simultaneously spurring new demands for more special relief which, once enacted, further erode public confidence.

The picture can be dispiriting. In part it reflects the inability of political leaders—of both parties—to find new themes that cut across the special interests of individuals, groups, and corporations and provide a new basis for building coalitions. This is the ongoing drama of government, but it should not be mislabeled. The system is struggling, but it is not corrupt.

Mr. MURKOWSKI. Mr. President, I see that my friend and colleague, the Senator from Pennsylvania, is on the floor and I would yield at this time.

The PRESIDING OFFICER. The Senator from Alaska yields the floor.

Mr. MURKOWSKI. The Senator from Alaska yields the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I compliment my distinguished colleague, the Senator from Alaska, for his erudite comments delivered at a time of considerable limitations in light of the fact that most of us have been up most of the night.

As I prepare to comment on the pending issues shortly after 8 a.m. this morning, less than 5 hours after those of us left the Senate Chamber, there are many matters of concern to me as I address this body, depopulated as it is with only the guardians of each party present on each side of the aisle to see to it that undue advantage is not taken of the other.

The pending issue is 6.2, campaign finance reform, but I suggest, Mr. President, that there is brooding in the Senate Chamber this morning a much more important subject and that is the operation of the U.S. Senate itself and the operation of the U.S. Government.

We witnessed in the course of the last several hours in this Chamber a historic event, an event where there was deadlock between the Democrats and the Republicans representing their respective parties on the underlying issue of campaign reform, followed by a deadlock on the procedure which the U.S. Senate was following, which was again followed by certain tactics undertaken in order to express a sense of concern on the part of the Republicans. Certain responsive tactics were then taken by the majority, or perhaps more accurately stated, by the majority leader which really raises very fundamental questions about the operation of the U.S. Senate and the U.S. Government.

During the course of just a few hours having elapsed from these events, I would not want to draw firm conclusions in what is the heat of this pitched battle or perhaps more accurately described as a war. It is more than a filibuster in the U.S. Senate at the present time, but I would choose instead to raise a series of questions about what has occurred in the U.S. Senate during the course of the past 8 hours.

We have seen deep concerns about an underlying bill. S. 2 raises many, many questions. It has been portrayed in a simplified form in the media and on editorial pages, but it is a bill with very profound implications. It sets out to restructure the procedure for electing U.S. Senators and its ultimate import, as characterized by the assistant majority leader of the Republican Party, is if S. 2 were to be passed, it would be the end of the possibility of a Republican majority in the U.S. Senate.

Partisanship has its appropriate place. But there are few, if any, who would contend that the structure of the U.S. Senate ought to be geared to preclude the possibility that one party could one day gain control. However wondrous the majority party may be, which is in power at the moment, the essence of a democratic society is that there ought to be competition and the second party ought to have an opportunity to acquire control if it can appeal to the voters.

But the structure of S. 2, as the Republican leader has articulated on this floor, as have others, is to preclude with finality or at least in the foreseeable future, the possibility that the Republican Party will have a majority in the U.S. Senate.

That is true because in so many States, it is necessary under our democratic process in robust advocacy to carry the message to the people through campaign finances. This is true because the beneficiaries of the Democratic Party involves a great deal of so-called soft money so that there are services, phone banks, and door-to-door canvassing, providing a unique advantage. As a matter of basic fairness, it is the Republican position that those soft services ought to count.

The issue of public financing draws deep philosophical objections from many people in our society, which includes some Democrats as well as the majority of the U.S. Senate Republicans. We do not feel that it is wise at a time of budget constraints and at a time of cutting very many important programs in this country, many vital social programs, that there ought to be public financing for election of U.S. Senators or Members of the House of Representatives.

S. 2 in its original form provided for public financing that could have run

up to $5 million for a Senator from my State, the Commonwealth of Pennsylvania. Had a similar program been available to the House of Representatives, the annual cost to the U.S. Treasury would have exceeded $300 million. This is a considerable sum of money when you take a look at the various appropriations bills, where you see the cuts on Federal funding for housing, the limitations on the Food Stamp Program, or the restrictions on WIC, funding for women, infants and children. The litany is virtually endless of Federal programs that have been hard hit by budget constraints.

There are other ways of solving the problem of unlimited expenditures by individual candidates from his or her individual wealth and that process is a constitutional amendment.

The decision of the Supreme Court of the United States in Buckley versus Valeo in 1976 was different, surprising, unique, perhaps even odd, where the Supreme Court said that it was unconstitutional to limit the amount of money an individual could contribute, $1,000, but you could not limit the amount of money an individual could spend of his or her own personal wealth, and that has injected into the campaign system what this Senator considers to be an element of unfairness.

I personally had a direct experience in 1976 with this issue when I decided to run that year for the U.S. Senate. I took a look at the Federal law of 1974, saw that the maximum that could be spent in a Republican primary in a State with the population of Pennsylvania was $35,000, examined my slim bank account, saw that I qualified for that amount, filed the papers and then, as I recall it, on January 29, 1976, the Supreme Court of the United States said that the limitation as to what an individual could spend was unconstitutional.

My colleague and now my colleague in the Senate from Pennsylvania was my primary opponent. That decision of the Supreme Court of the United States was not inconsequential in the course of that particular campaign.

There is a way to deal with that issue, however, and that is through a constitutional amendment. Given the national concern on this issue it is my judgment that it would not be too difficult to have a constitutional amendment which would give the Congress the authority to structure campaign financing and would limit the amount of money an individual could spend of his or her own wealth.

About a year ago this Senator met with the assistant majority leader of the Democratic Party and the chairman of the Constitution Subcommittee of Judiciary, I being the ranking Republican on that subcommittee. We discussed an approach for a constitutional reform to deal with the problems raised by Buckley versus Valeo.

This Senator pledged support to process that effort as promptly as possible.

Nothing has been done on that subject because there has been a tactical decision by the Democratic Party to press S. 2 as opposed to proceeding with the constitutional amendment. My thought was, and is, fine, if you want to suppress S. 2, why not proceed with the constitutional amendment at the same time? However, that has not been the choice of my colleagues on the other side of the aisle.

The problems which some address on campaign financing can be dealt with effectively through a constitutional amendment, as opposed to S. 2 which has public financing as its essential ingredient.

We simply do not need to have public financing to solve this problem. There is ample area where agreement can be reached on this subject. I was hopeful that we might have been on that track when, in the course of the last several days, four Senators were appointed by the Republican leader and four Senators by the Democratic leader to try to work out a compromise on the issue of campaign reform.

Unfortunately, at least up until the present time, those efforts to work out a compromise have not been successful and that has brought us to this impasse on S. 2 and to the events of yesterday, which culminate 1 year of debate on the Senate floor. Since that time seven motions to invoke cloture, that is to cut off debate and end the filibuster, have been defeated.

It is said that seven votes constitute a record on that particular subject. If so, or even with seven votes on the record itself, it is a strong showing of a very firm position on the part of some 45 Senators in this case that those Senators are unwilling to proceed to have votes taken on S. 2.

Mr. President, the votes on cloture, as you know, and as everyone who serves in the U.S. Senate knows, and as many Americans know, constitute a very important part of the Senate procedure and the right of unlimited debate exists to stop 51 Senators from controlling every issue by a simple majority vote.

The cloture rules, therefore, say that there have to be 60 Senators to vote for cloture, where it is considered by 41 or more Senators that the issue facing the Senate is one of fundamental importance, one of importance sufficient to stop the business of the Senate from coming to a vote. That judgment has been made not by 41, not by 42, 43, or 44, but by 45 U.S. Senators, significantly above the number required under our rules to say that the Senate will not take up the matter on the merits.

There could have been an opportunity in the course of the past 7 days in the U.S. Senate for the majority leader to again test the cloture issue. We were on this bill every day last week. We are now on Wednesday of this week and have been on this bill for the last 3 days. As yet, we have not had another cloture vote because it is apparent what that conclusion will be. Although because a cloture motion has been filed, one is scheduled later this week.

Yesterday afternoon, after a day of debate, the majority leader chose to keep the Senate in session and proceed with a series of votes denominated as motions to compel the attendance of absent Senators. Now, what was the purpose of that proceeding?

As I see it, none. The negotiators had not been able to reach any agreement. It was apparent that the lines were hardened and becoming harder each minute as to the position on the underlying merits. If they were hard yesterday, as the expression goes, "You ain't seen nothing yet," until today. Gauging by the feelings of this Senator, and gauging by the feelings of the Senators who were then assembled in the Republican cloakroom, the events of last night will turn concrete into granite and steel into molybdenum in terms of what the responses will be to what the majority leader has chosen to do in the U.S. Senate.

The process, the questions raised, a series of meaningless rollcall votes and a session which would be round the clock, appear to many to be demeaning to the Senate and demeaning to the individual Senators.

What was the purpose of having the world's most famous deliberative body in session all night? What was the purpose of bringing Senators to the floor every few minutes, every half hour, every hour to respond to motions to compel the attendance of Senators? If it had the effect of advancing discussion or trying to help break the deadlock, then there would have been some purpose.

But Senators in this Chamber have worked willingly around the clock, past midnight, past 2 a.m., past 4 a.m. to 9 a.m. the next day and into the next night during my tenure in the U.S. Senate, and they have done so willingly when there was a purpose for what was being undertaken.

It seemed to many of us that the process was demeaning, demeaning to the Senators, and demeaning to the Senate and ought not to be complemented to the extent that the rules permitted an expression by the Republican side of the aisle.

So the Republican Senators last night, made a judgment to express their concerns, perhaps their sense of outrage—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Pennsylvania.

Mr. SPECTER. The decision was made to express our concern and our protest over the position taken by the majority leader by absenting ourselves from the Senate Chamber because there was not likely to be the requisite quorum necessary to proceed with the Senate's business under the Senate rules.

May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Pennsylvania has the floor. The Senate will be in order.

Mr. SPECTER. One of the concerns which this Senator has, and I say so with some forcefulness, is the unequal enforcement of the rules in the U.S. Senate. A topic which has concerned many of us with the advent of the 15-minute precise rollcall vote is the failure to enforce for collateral reasons. Having spent most of the night up—Mr. President, may we have order in the Senate?—having spent most of the night up, I think I am entitled to have a Senate which is in order, even if not populated this morning.

The PRESIDING OFFICER. The Senate will be in order. Necessary conversations will please go to the cloakrooms.

Mr. SPECTER. Mr. President, as I was saying, the Republican minority decided that it would express itself in the face of what our assistant majority—minority leader; a slip of the tongue, a Freudian slip, a wish. Last night our assistant minority leader took the floor after 3 a.m. and made a brilliant speech characterizing the tyranny of the majority, or the tyranny of the majority leader.

In response to the tactics which were being undertaken last night past the hour of midnight the judgment was made that the minority would not submit to the unreasonable approaches being taken by the majority leader. Therefore, the minority absented itself from the vote which was taken around midnight on a motion to compel the attendance of Senators. That motion passed, as I recollect, by a vote of 47 to 1, but there was not a quorum present. That led to a motion to arrest absent Senators, a highly unusual proceeding and one which, according to my review of the rules of the Senate, is highly questionable. Even more highly questionable was the way and the manner in which that motion was carried out.

Senator PACKWOOD was brought to the floor of the Senate last night past midnight with the use of physical force. Senator PACKWOOD was in his office, and he had it locked thinking that it was his office and his lock, but he was surprised, because representatives of the Sergeant at Arms, perhaps the Sergeant at Arms himself, we have not yet identified all the players—and I hope we will have a searching investigation and a searching inquiry of everything that was done last night in this regard, the kind of an inquiry which is made when the most heinous of criminals in our society are subjected to arrest, search and seizure police action without meticulous compliance with constitutional rights.

But as reported to me by Senator PACKWOOD himself—or was told to me by Senator PACKWOOD, it was not a report, I was interested. He said that he was in his office and had his door bolted, and he thought that assured him privacy. Then a key was placed in the door and a forceful intrusion was made by the Sergeant at Arms. In the course of the physical force used by the Sergeant at Arms Senator PACKWOOD more seriously injured his left hand.

We have seen Senator PACKWOOD over the course of the past 10 days in this Chamber wearing a cast on his hand. He has broken a finger, I believe. It was required, Senator PACKWOOD said last night, that he seek additional hospitalization and medical care for this injury as a result of what happened. During the course of Senator PACKWOOD's conversations with those who took him into custody, he raised an objection to the force which was being used and to the arrest, and a telephone call was made. While Senator PACKWOOD was only on one end of the conversation, he thought that the Sergeant at Arms, or representatives of the Sergeant at Arms, were calling the Secretary of the Senate. It was further believed that the Secretary of the Senate received his instructions from the majority leader, and those instructions were to take Senator PACKWOOD to the floor of the U.S. Senate forcefully so that a quorum would be present and the U.S. Senate could continue through the night conducting its nonbusiness, making a charade of the rules of the U.S. Senate and making a charade of the operation of the U.S. Government.

There are meticulous rules which are available for any individual in the United States of America, whether he is a citizen, whether he is an alien, whether he is a felon, as to what his rights are. Perhaps those rights ought to be accorded even to U.S. Senators who are exercising their own rights and living within the rules.

The knock on the door and the forceful entry into Senator PACKWOOD's office smack of Nazi Germany, smack of Communist Russia, but are hardly characteristic of the United States of America and should be even less characteristic of the operation of the U.S. Senate.

After the procedure last night, I question whether or not this Senate can function in that climate and with that conduct. The operation of this body depends indispensibly on comity, on good will, on respect, and on consent. The two most frequently used words in this body are "unanimous consent."

It is possible for any Senator at any time to tie up the U.S. Senate by choosing to withhold that unanimous consent.

This body adjourns when the last Senator is finished speaking. The unanimous-consent requests occur again and again and again on the floor of this Senate and, should any individual Senator choose to object to the operation of this body, it would be very, very easy to do so. You do not have to have 41 Senators or 45 Senators. Any single Senator can accomplish that.

So, I question, Mr. President, what is the long-term effect or what is the immediate effect of the events which occurred here last night.

The bill itself, S. 2, has enormous implications of public policy and is subject to debate and disagreement. Forty-five U.S. Senators have said that they, we, do not believe debate should be brought to a close, and the rules indicate that that is an impasse and a blockage and that ought to be respected.

Beyond the subject of the substantive matter itself, there is the issue as to what occurred here last night with arrest warrants being issued and arrest warrants being served in a way which did not even comport with the constitutional rights which are accorded to those accused of the most heinous crimes in our society.

Mr. President, again in the line of questions which this Senator is raising, I question the propriety of the procedures used by the majority leader last night. The Constitution of the United States provides for compelling the attendance of U.S. Senators. But it does not say anything about warrants of arrest. It does not say anything about the kind of tactics which were used last night in bringing Senator PACKWOOD to the floor.

Article I, section 5, of the Constitution provides:

> Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Now, the language "to compel the attendance" of Members says nothing about a warrant of arrest. The framers of the Constitution were well aware of the use of warrants, and probable cause and the procedural requirements which they saw fit, as evidenced by other sections of the U.S. Constitution. But this provision specifies "in

such manner, and under such penalties as each House may provide."

The U.S. Senate, Mr. President, has no rule on compelling the attendance of absent Members and has no rule on the issuance of warrants of arrest. The provisions of rule VI, section 4, provide only that:

Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a previous order enetered by unanimous consent, shall be in order.

Rule VI, subsection 4, as is obvious from the face of the rule, makes no mention about warrants of arrest, none whatsoever.

There are some precedents which have reference to the issuance of compulsory process. But they are very limited indeed, Mr. President, and hardly articulate a process such as that which was used yesterday in bringing Senator PACKWOOD to the floor of the U.S. Senate by force.

On page 1174 of the book on Senater procedure, there is a section denominated "Attendance of Absent Senators—Procedure for Compelling in the Absence of a Quorum." It reads as follows:

[The last order adopted by the Senate to arrest absent Senators occurred on November 14, 1942. On that occasion when the Senate found itself without a quorum, it first adopted an order to direct the Sergeant at Arms to request the attendance of the absent Senators. After some time had elapsed, the Majority Leader, Mr. Barkley, made another motion, which was agreed to, to direct the Sergeant at Arms to compel the attendance of absent Senators. This order having been in operation for some time and a quorum still not being present, the Majority Leader asked that the Sergeant at Arms make a report to the Senate upon his efforts to compel the attendance of absent Senators. The report having been made as to the absent Senators who were out of town and those who were in Washington, the Majority Leader, Mr. Barkley, made another motion, which was agreed to, authorizing and directing the Vice President to issue warrants of arrest of the absent Senators then in Washington.]

This precedent, Mr. President, to the extent that it is valid, calls for the Vice President to issue warrants of arrest.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, the precedent of having the Vice President of the United States sign a warrant of arrest was not followed last night. I have not been able to obtain a copy of Senator PACKWOOD's warrant of arrest, although I do, in fact, have a document which was served on Senator WEICKER in an interesting sequence where, for reasons which have yet been explained, the representatives of the Sergeant at Arms chose not to exert bodily force on Senator WEICKER. But, I believe it is fair to represent that the Weicker warrant is identical with the Packwood warrant. Certainly they were issued at the same time. We can obtain the Packwood warrant and see precisely what it says.

When I heard that Senator PACKWOOD had been arrested subject to that warrant, I questioned what his response would be the next time—well, Senator PACKWOOD may never again fill out an application for employment since he is so securely ensconsed in the U.S. Senate—but what would Senators under similar circumstances reply the next time they faced a questionnaire: Have you ever been arrested? If so, state the circumstances. Not a pleasant question to answer. But back to the question at hand.

The document which was served on Senator WEICKER reads as follows: To, and then the Sergeant at Arms at that time, which was a long time ago because the document is dated 195- with a blank so as to be used in the 1950's. It reads, U.S. Senate, Washington DC, a line 195- with the year to be filled in, to, and then there was a name filled in—but it was whited out—Sergeant at Arms, United States Senate.

The undersigned presiding officer of the Senate by virtue of the power vested in me hereby command, in pursuance to the order of the Senate this day made to forthwith arrest and take into custody and bring to the bar of the Senate L. Weicker, who was absent without leave, to wit——

And there is nothing in the "to wit" blank.

Then there is printed language, "hereof fail not and make due return of this warrant. In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the United States Senate this 23d day of February 1988. Brock Adams, Presiding Officer," attest, what appears to be the signature of Mr. Stewart, as Secretary.

Mr. President, a fundamental issue arises as to the authority of Senator ADAMS to execute this document when the rules of the Senate call for the Vice President to do so.

A substantive question arises because, on the issuance of a warrant of arrest or any warrant, there is supposed to be the intervention of a dispassionate magistrate who looks at the facts and who makes an independent determination, above and beyond that which the representatives have made who have asked for the warrant. If you are seeking a warrant of arrest you have to state established facts and probable cause for a certain warrant. You have to have an affidavit which recites probable cause. An affidavit, too, on a warrant of arrest. The magistrate is an intervening official to guarantee that there is a detachment, or a sense of objectivity, in evaluating the underlying facts. That is a cardinal principle in the issuance of these documents, which are intrusive into the lives of citizens and Senators. And a question arises here as to whether the presiding officer, who was there last night, presumably—we do not know all the facts, and I hope we get them—was acting at the request, or perhaps the suggestion, of the majority leader. That hardly has the imprimatur of the detached magistrate making a determination that this compulsory process ought to issue.

There is a further fundamental question, Mr. President, about the authority of the Presiding Officer, and I will not go into this in any great detail because my time grows short. Anyhow, time flies when you are having fun, and I have sufficient time to face even an overnight filibuster. There are elaborate rules which set parameters for the appointment of Presiding Officers of the U.S. Senate. They are made by the President pro tempore, either in open Senate proceeding, which I believe was not done, or by written direction which was not done. In the intervening several hours, we will inquire into this further, but the appearances are that the procedures were not followed.

Mr. President, in our laws on the execution of documents, the courts have established the most meticulous requirements for compliance and authority before there is a warrant of arrest, a search-and-seizure warrant or any warrant under our system which mandates compulsory process. This document raises many questions on its face. This document does not have the identification of the party to whom it is issued. This document does not have a fill-in of the blank "to wit" where it recites someone is asked without leave, to wit requiring a specification of detail.

On the reverse side of the document there is no specification about who was appointed and empowered to serve this subpoena. And on the face of the document, it is internally inconsistent because it is not a subpoena. It is a warrant. On the face of the document it recites, "Command you to forthwith arrest." On the reverse side of the document, it recites, "Subpoena." And there is all the difference in the world between those two legal documents. So on the face of this document, Mr. President, there is much to question as to whether there was compliance with some of the very basic and fundamental principles of law.

I would suggest that in the United States of America, the courts have observed meticulously the rights of those who were subject to compulsory process. The case books are filled with de-

cisions since United States versus Weeks—I believe decided by the Supreme Court of the United States in 1916—which require meticulous compliance before search warrants are valid. Volumes of evidence were suppressed, hundreds, thousands of those where guilt was obvious because of the quality of evidence were freed, because compliance was not made with those constitutional, mandatory requirements. Again, there are hundreds, thousands, perhaps tens of thousands of cases on State prosecutions where warrants were invalidated under the mandate of Mapp versus Ohio. I know the date of that decision because I was there at the time, June 13, 1961, where the Weeks rule, applicable to Federal courts, was enforced upon State criminal prosecutions by virtue of the applicability of the due process clause of the 14th amendment picking up the requirement of the fourth amendment on unreasonable searches and seizures. I could regale this Chamber at some length, perhaps will to some extent, since my replacement has not arrived as of this moment, where those conclusively guilty were set free because of the importance of this requirement.

I recall very well a case called Hickey versus the Commonwealth of Pennsylvania where a defendant was taken into custody on a charge of murdering a cab driver and the evidence obtained from his house was conclusively shown to be that of the cab driver. The murder weapon, as I recall this case—it goes back to 1967—was identified conclusively, and there was no question that Mr. Hickey was guilty of the offense as charged, and the charge was first degree murder, robbery-murder. The case came to court and Mr. Hickey was released because the requirements of procedural due process were not followed.

The decisions of the courts of the United States have imposed these provisions with meticulous care because of our judgment as a society that these procedural rules have to be followed before there will be intrusion into the apartment of an obvious murderer. What less protection is a U.S. Senator entitled to when he is in his office in the U.S. Senate after midnight on a Tuesday night, taking care of his business with his door locked and thought to be exercising his own rights as an individual, let alone as a U.S. Senator?

Mr. President, there was considerable dismay last night in the Republican cloakroom when it was announced that the locks on the doors do not work because there is a master key, including the dead bolt. There may be today quite a few carpenters on the premises of the U.S. Senate, Russell, Hart, and Dirksen Buildings, and the hideaways in the Capitol where Senators may choose to have their own locks on their doors. I know of no rule in the books to prohibit that kind of procedure, and that may follow because of the events as to what happened last night.

I would suggest, Mr. President, that the events of yesterday are matters really of enormous importance. I believe that this body, this august body, this allegedly august body, has to do some considerable soulsearching and inquiry into our internal procedures to see if we can continue to function and do our job as U.S. Senators in the U.S. Senate in terms of being the world's most deliberative body, in terms of carrying out our responsibilities.

Last night was substantial evidence that if those practices continue, there will not be the basic comity and respect necessary to carry on the workings of the U.S. Senate. We are engaged in a dispute which has become a filibuster, which has become a controversy, which has become a battle, which has become a war. It has become a war where physical force is used to bring a U.S. Senator to the floor after a legitimate exercise of minority rights. And minority rights were recognized in the U.S. Senate perhaps before minority rights were recognized to the extent that they are today in the U.S. Constitution. Well, maybe not. Maybe minority rights have always been present for everyone in this country, but at least no less for Senators than for others.

Last night we saw an event where under the existing and recognized rules of the U.S. Senate, more than 41 U.S. Senators said, repeatedly—seven times ought to be sufficient evidence that 45 Senators are exercising their rights as U.S. Senators under established and unchallenged rules not to permit an issue, a bill, S. 2, to come to the floor for debate. In the face of that declaration, and in the face of gridlock, deadlock among the eight Senators designated, four by the Republican leader and four by the Democratic leader, being unable to solve the issue of S. 2. In the face of what was considered to be an inappropriate procedure, a procedure which was demeaning to the Senate and to the Senators, where we were called to this floor for repeated pointless votes, Republican Senators decided to exercise their rights, and that led to a response which, I would suggest, reaches a new low in proceedings in the U.S. Senate—where a Senator's office was invaded forcibly with a master key and the Senator was taken into custody.

Mr. CHILES. Will the Senator yield? I do not want to interrupt his chain of thought.

Mr. SPECTER. I could not be accused of having a chain of thought. In the course of this extended speech, I would be delighted to be interrupted, and I would be delighted to discuss this issue with the distinguished Senator from Florida, second only to discussing the issue with the majority leader.

Mr. CHILES. I heard some of the Senator's remarks and I heard the Senator was saying that another Senator, Senator PACKWOOD, in this instance, was entitled to such courtesies as the constitutional rights of being able to make a phone call and have counsel.

I have to say I was sort of surprised and shocked to hear that.

Mr. SPECTER. The Senator did not hear that. I did not say that he ought to be able to make a phone call or have counsel. I did not say that at all.

Mr. CHILES. I stand corrected then. I was shocked to hear that the Senator from Pennsylvania would think that a Senator here had any rights. I found that out a long time ago. The Senator has not been here that long.

Mr. SPECTER. I did not find out until last night.

Mr. CHILES. A Senator enjoys some of the rights that ordinary citizens do. I think we understood that a long time ago. That is one of the reasons that I want to go back and get some of those rights of citizens again. So I would hope the Senator from Pennsylvania is not trying to let the American people know that Members of the U.S. Senate enjoy any of the basic rights, protections that ordinary citizens do. I hate to have him put that kind of myth out in the countryside.

Mr. SPECTER. Well, I think the distinguished Senator from Florida raises an interesting point and a valid point. The conclusion may be that U.S. Senators ought to enjoy some rights. If Senators had some rights, perhaps Senator CHILES would not be exiting the floor of the Senate now, perhaps exiting the Senate permanently at the end of this year.

We have very important public business to conduct. That goes without saying. We have conducted that public business all night long, in good cheer on important legislative matters, on the campaign finance bill, on a variety of bills. On the continuing resolution, at 3 a.m., 4 a.m., there were 60 Senators on the floor and 40 Senators more in their offices ready to come to the Senate floor to discuss matters, to vote and to carry on the business of the Senate. But there is a certain objection when Senators are subjected to what is essentially demeaning and pointless; where Senators have expressed themselves seven times in insisting that an issue, S. 2, will not come to a vote because there are fundamental disagreements. The rules of the Senate have long been established in respect to the rights of the 41 Senators. It used to be 34. It used to require two-thirds of the Senate to cut off a filibuster and close debate.

When those rights have been exercised and then one step beyond, when

there is a sense of concern, perhaps a sense of outrage that Senators are not being treated fairly, not being treated appropriately to retire from the Chamber, to retire to the privacy of a Senator's office and find the intrusion of the Sergeant at Arms, who makes a call apparently taking instructions from the Secretary of the Senate and maybe taking instructions directly from the majority leader, questions which I hope will be answered on the floor of this Senate, under a document which is not provided for in the rules, where there is a precedent for issuance by the Vice President but not by any other Senator, where there is a real question about the authority of the Presiding Officer last night to sign this document because of the issue of compliance with either the direction by the President pro tempore in writing or in the open Senate, those questions have to be answered. The document which has many defects on its face certainly, if it were isssued for a common criminal, would be struck down as being insufficient. But a Senator being brought forceably to the Chamber of the Senate, a Senator who sustained injury—how serious I do not know, but a report as of a few hours ago was he would have to go back to the hospital for additional medical attention to a broken finger, which injury was aggravated in the course of a scuffle—those are really very, very important issues and I would suggest this transcends the substantive issue embodied in S. 2.

S. 2 is very important in and of itself, but what happened here last night is even more important, and I hope that in the course of this day, we have the answers to these questions. I hope, even more, that we can reinstitute in this U.S. Senate a sense of comity and a sense of respect so that this body can function and perform its very important obligations to the people of the United States of America. I thank the Chair. I thank even more my distinguished colleague from Utah for appearing to relieve me and I yield the floor.

Mr. HATCH addressed the Chair.

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

Mr. HATCH. Mr. President, I am happy to be here this morning, and of course happy to have participated last evening as well. This is a very important debate which I think has gone on too long. As a matter of fact. I think it is a travesty to use the Senate's time with all the work that the Senate has to do to play around with this type of, I think, shameless legislation. I think we should reach a point in our lives where we realize that you have lost on this legislation, and even if by some miracle this legislation would pass, I guarantee the President is going to veto it and we are going to sustain his veto.

So this is an exercise in futility, to require Senators to stay in all night last night on something like this that has had seven cloture votes, the most in the history of the Senate on a substantive issue. I know a little bit about that because I was the Senator, along with Senator LUGAR, who conducted the filibuster back in 1978 that went to six cloture votes on labor law reform. It was hardly reform. It was just like this bill: Let us just have one party in America, let us make it the Democratic Party, and let us stack all the rules so that only the Democrats have advantages in this body. And that bill went down by really one vote after approximately 6 weeks and really 2 full years of battle, and I have to say the majority was right in pulling it down after the sixth cloture vote when they lost. Now, here on something that is even more heinous than that, because it is stacked in favor of one party in America and one-party rule in America, which we virtually have had in the Congress for most of the last half century, we find ourselves being treated like we were last night.

This works both ways. The minority does have some rights. That is what makes this the greatest deliberative body in the world. There is no other body I know of that has that filibuster right. It is a protection to the minority. It is a way of preventing garbage legislation from passing, and it may be a way of preventing legislation that may be good. But this is not good legislation. As a matter of fact, it is one sided; it is partisan; it is Democratic Party oriented; it is against the Republican Party. Any Republican who has any sense is going to stand up and fight this legislation tooth and nail, right down to its bitter end.

If there is a chance of passing this and passing it in such a way that it would benefit the country, that it would benefit both parties, that it would be fair, then I think there would be cooperation from this side, and I think there would have been offers of cooperation from this side. But there is no chance in the world, based upon the present language in this legislation.

Therefore, what really bothered me last night was that we keep up everybody. Some of the Senators are younger and can take all-night sessions on something that is frivolous and not worthy of our time. A lot of us can do that. Some of us have been through it time after time after time. Some of us understand the use of the filibuster rule.

I have upheld the rights of Senators, on legislation that I totally disagreed with, to take on the whole Senate because I felt strongly about an issue.

I know that my distinguished colleague from Ohio, who is on the Labor Committee and the Judiciary Committee with me has conducted very effective filibusters in conjunction with other Democratic Party members, on items that I felt were very unworthy of Senate consideration. But I have upheld his right to do that; because anybody who has the guts to come out and stand on this floor and take the time and take the beating necessary for a filibuster should be commended, no matter whether we agree with him or not.

This is a rule of freedom, and I will fight for it as long as I am in the U.S. Senate. I will fight for Senator METZENBAUM'S rights as much as for Senator SIMPSON'S rights or anybody else.

What happened last night, I think, was a little bit inexcusable. The Constitution provides that each House may be authorized to compel the attendance of absent Members.

The majority leader, for whom I have a great deal of respect, procedurally and substantively, came to the floor and spoke about obeying the Constitution. I felt that the rules were violated last night by the majority.

The Constitution provides that each House may be authorized to compel the attendance of absent Senators—article 1, section 5. Pursuant to this grant of power, the Senate adopted rule VI of the Standing Rules of the Senate, authorizing the direction to the Sergeant at Arms to compel the attendance of absent Members, absent Senators.

The precedents of the Senate state that an order adopted by less than a quorum authorizing the issuance of warrants of arrest for absent Senators not sick or excused is in pursuance of the rule of the Senate and is not debatable. That is in Senate Procedure, page 175.

That is not to say that the events of last evening were not extraordinary. The appendix to Senate procedure states that this power to arrest was last used in 1942. That is how much it was used. This was accurate at the time it was published, until the present majority leader used the power in his first term as majority leader, and now a second time in his second term. That this rarely used power was used to justify the breaking into of a Senator's office—a Senator whose injured arm was severely jostled and hurt—and have that Senator physically transported to the floor of the Senate, I think takes on the aura of a banana republic and not the greatest deliberative body in the world. I thought it was a disgrace.

I do not blame the Sergeant at Arms. He is a wonderful man. I have a lot of respect for him, and I like him personally. But I think he should have done what was done in the past on these things after they had a debacle here. There are Senators who will never forgive the people who did it to them. They took the warrants out and

walked the Halls, but did not arrest anybody or try to haul them in bodily to the Senate floor.

I think that those who participated in this Kafkaesque episode brought no credit to themselves and no credit to this institution. It bothers me a great deal that that type of treatment occurred, and I think the minority was in their rights. The majority could not produce a majority. They just could not do it. We know what a lousy bill this is, and we know how unfair and partisan and really downright hostile this bill is to the Republican Party.

If the American public could really find out what is in this bill—there are some editorials written by people who only care for the Democratic Party or for the more liberal point of view—they would be shocked that one side is trying to put this charade on the other.

If Senators who are unwilling to vote for cloture are to be subjected to this type of harrassment, then the protections of the minority, so often remarked upon in this Chamber, are just a sham and a pretense.

It has been said that the worm has had a habit of turning in this Chamber, so it is true that there will be other days when maybe those who are so proud and haughty members of the majority will know the rigors of defending themselves in this Hall. Perhaps then they will remember this overbearing approach and their overbearing ways and wish they had respected the minority just a little more.

A great statesman once remarked that if the marble pillars of the Capitol were to fall, they could be built up again, if all we see around us were to be utterly destroyed, it could be reconstructed. But who is to build the pillars of justice and right if they be pulled down?

I think the Senate is more than just its physical surroundings, and those tangibles are the more difficult to construct once the curtain of comity has been rent.

I say let us see no more of this type of incivility. My colleagues in the Republican Party deserve better than this. I am a little concerned about the way it was done. I want to know who signed those warrants with regard to Senator PACKWOOD and whether that was right, whether any Senator sitting in the Chair can sign those warrants.

I want to know if they were directed to Henry Giugni, the Sergeant at Arms, if they just nebulously went to the Sergeant at Arms. I do not believe they were directed to the Sergeant at Arms by a person. I want to know if the procedures were really followed constitutionally, since the issue has been raised.

I think the distinguished Senator from Pennsylvania raised a number of very good points. Even U.S. Senators have constitutional rights. They have a constitutional right not to vote, if they do not want to. They have a constitutional right to filibuster if they want to. They have a constitutional right to come on this floor and talk as long as they want to, if they can hold the floor. They have a constitutional right, it seems to me, to be treated fairly, just like anybody else in our society. They have a constitutional right to due process. I think they have a constitutional right not to have their physical person hurt just because there is some order from this body. It seems to me that it would have been better for them to find somebody to bring in who did not have a bad arm.

Now, I have to put myself in the shoes of the Sergeant at Arms, who was directed to do this type of travesty. He has no choice. His job depends on it. I do not particularly blame him; although when a Senator is in his own chamber, locked in his own chamber, I question whether it is constitutionally sound for anybody, especially somebody lesser than that Senator in position in this body, to break into his office and force him out of his office and carry him here to the floor—that Senator has a right to say, "I am not going to vote"—and then force him to vote. Where is the constitutionality for that?

Let me tell you something: I have been here for 11 years, and I have been in some of the worst battles we have ever had here, and I have led our side in some of the worst battles we have ever had here; and I, personally, have never been treated like that. I am not going to tolerate other members of my party being treated like that. And I will be honest with you: I will not tolerate members of the Democratic Party being treated like that. It is a disgrace.

Let us understand something. If this type of stuff continues, this place is going to shut down until there is civility here and respect for the minority. If you do not believe me, just keep it up.

I think there are a number of us who feel very deeply about this who basically have not participated as strongly as we could because we know that, frankly, it is not going to go anywhere, anyway. To make that kind of a big show last evening, just so that the media might be able to say that the Republican Party is against campaign reform—they call it campaign reform when it is really campaign travesty—it seems to me borders on stupidity.

Let me just say this: I am very offended by what happened last night, and I think my colleagues on this side are very offended by what happened last night. I think my colleagues on the other side ought to be offended.

I do not always agree with Senator PACKWOOD, but he is a terrific Senator who acts very properly in his own beliefs, for his own purposes. I think he has distinguished himself as one of the great Senators in the U.S. Senate. He and I have fought each other on this side of the aisle, but every time we have, it has been, if not an enjoyable experience, certainly an enlightening one, because he is one of the most intelligent and articulate people in this body. He sides a lot on some important issues with people in the majority. It seems to me that he was very badly mistreated, and the minority in general has been very badly mistreated.

I question the constitutionality of what happened last night. I do not think that because the rules say you can arrest Members, that allows you to abuse Members and force them to vote against their will. Maybe it does; and if it does, then this body does not have constitutional protections; and I suspect that if they are tested in the Supreme Court, they would say it is a political question. That still does not justify the unconstitutionality of the very nature of what went on last night.

Maybe in the zeal to make political points, we do some things in excess. I perhaps have been known to do that myself, and so we will probably all forgive and forget. But I think there comes a time when this very, very poor bill ought to be recognized for what it is—a very, very poor, one-sided, partisan, biased, pro-Democratic Party bill, and it ought to be pulled down. I think we are at that time, and I think we were there at the end of last year when they were contemplating bringing this type of poor legislation to the floor.

I want to make a few points on the bill itself, although I really would like to go on about the unconstitutionality and the mistreatment of one of my colleagues.

If this bill may have a chance of becoming something, I could see this type of fight, but it really does not. Frankly, there is no real desire to reform, except in a very partisan, one-sided way.

I look at every time I am up for reelection. I am one of the few Members in Congress who came up through the ranks. I earned my spurs. I worked 10 years in the building and construction trade unions with my union brothers, and I am proud of it.

I went through a formal apprenticeship and owned my own union card. I think unions are crucial to our country in many ways. I think union leaders, in many ways, act not in the best interest of their union members. Some union leaders do not, and they are constantly acting in a very partisan way.

Sometimes the things they bring to the floor have to be fought because they are one-sided, very partisan, and, invariably, pieces of legislation that

seek power. Not just power, but power that will give them authority over anybody else.

They are searchers after power sometimes. Sometimes we have to fight against that legislation. Every time I come up for reelection, there are millions of dollars, even though I am a union brethren, because I have to fight against these power-grabbing bills from time to time which are one-sided, one-party oriented bills, and really contrary to our system and, in some instances, actually pushes toward socialism, and I have to fight against them.

Every time I come up for reelection, I can count on millions of dollars being brought in that are never, never, listed by my opponents in their Federal election returns. If I have a nickel that comes in that is required to be reported, I have to report it. Of course, I never handle it myself. Other people handle it, but if they make a mistake, I am going to get clobbered for it. It is really disconcerting every time to see one segment of our society have a complete and open right to come in and do whatever they want to do without ever reporting a nickel of that to the Federal Election Commission.

So you can count in any election that I am in, double or triple what my opponent actually lists as the donations made to him through political action committees or individuals. You can double or triple it, because that is really what the undisclosed union-backed money really is in that campaign, and that happens to Republicans all over this country, and it happens to conservatives all over this country. It is unfair. It is not only unfair, I think it is unconstitutional.

The fact of the matter is, it happens every time. People like myself just have to raise a lot more money, and it always looks like we have raised more than the other guy, even though, in reality, they bring in political operatives and they run shows against us—picking people up, taking them to the polls, telling them how to vote, registering people, and spending countless dollars in other ways to advance the cause of their chosen candidates against us conservatives or against generally us Republicans.

The unions are right there to find me on their side, and they have. I do have some union support because they have taken time to look at the issues and realize that I am fighting for higher principles than just one special-interest group having a given presence over another, but this bill just enhances that. There is nothing done about that. Not a thing. Not one thing.

Let us talk about increased campaign costs. Campaign expenditures have increased at an alarming rate since the 1970's, exceeding the overall increase in cost of living. In congressional elections, the aggregate cost of House and Senate campaigns have risen to almost four times between 1976 and 1986, from $115.5 million to $450 million in 1986. This compares with an overall cost-of-living increase of roughly double in that same period.

The increases in aggregate campaign costs were even greater for the average winning candidates. The campaign costs for the winner of the average House race rose from $87,200 in 1976 to $355,055 in 1986. The average for a successful Senate campaign increased from $609,100 to $3.1 million during this very same period.

The costs listed above do not include increases in independent expenditures or in political party support of candidates or support from outside groups beyond the direct contributions from political action committees and individuals.

Why have PAC's become so predominant? The rising costs of getting elected to office are closely linked to increased candidate reliance on contributions from political action committees.

Fundraising pressures tend to focus a candidate's attention on wealthy individuals and PAC's as opposed to the broad electorate, although I have to admit, there are hundreds, if not thousands, in various PAC's, little people making donations to the PAC hoping that the administration of the PAC would give the money to, basically, the people they would support.

I would say fundraising pressures tend to focus a candidate's attention on wealthy individuals, and, I might add, on PAC's as opposed to the broad electorate. As a result, the role of political action committees itself in the context of the relative role of other funding sources have become a major issue.

Statistics reveal a significant increase in the importance of PAC's, in terms of number, money contributed to candidates and the ratio of PAC support relative to other sources of funding.

The number of federally registered PAC's grew from 608 in 1974 to 4,211 in 1987.

The amount contributed by PAC's to House and Senate candidates during this period increased from $12.5 million to $132.2 million. That is more than a 400-percent rise, even factoring for inflation.

Critics of the present system say the PAC's have too much influence over a candidate, that they hinder an elected official's ability to serve his or her constituents.

Others contend that average Americans are being shut out of the political process. Given the strong inclination of PAC's toward incumbents, accounting for some 68 percent of political action committee contributions in 1986, PAC spending may hinder electoral competition by adding to an incumbent's natural political advantage.

Those who defend the role of PAC's in elections argue that they reflect the pluralism inherent in our political system. PAC's should be viewed as, one, representing a wide variety of interests; two, giving voice to many who were previously uninvolved in politics; and, three, promoting competition in elections by funding challengers in the more closely contested races.

What are the policy options?

Two primary considerations serve to frame this debate: What changes can be made that will not raise first-amendment objections, given the Supreme Court's rulings in Buckley and other cases, and what changes will not result in new, unforeseen, and perhaps more troublesome campaign finance practices in the future?

The latter point is underscored by the experience with previous amendments to the FECA, such as the growth of political action committees following, among other things, the 1974 limits on contributions.

Most legislative proposals have tried to curb the perceived influence of political action committees. These proposals seek to achieve this either directly, through new limitations or through reductions in existing ones, or indirectly, through augmenting the opportunities for other sources—notably individuals and parties—to fund campaigns.

One can argue that current law favors political action committees over individuals in that there is no aggregate limit on contributions by a PAC while there is a $25,000 limit on contributions by an individual.

There are two primary methods of directly curbing political action committees which have been proposed in legislative form: lowering the current $5,000 limit, as the Republican alternative bill—S. 1672—does, or placing an aggregate limit on the amount of PAC contributions a House or Senate candidate may accept, as S. 2 does.

Mailings and advertisements by Common Cause single out PAC's as special interest groups which are able to distort and control elections. Why then has Common Cause chosen to endorse a bill which does nothing to reduce the maximum contribution which individual PAC's are allowed to contribute to each Senate campaign? S. 2 would give PAC's even more influence.

So where is their great justifiable reasoning for election reform here? The fact of the matter is, if you follow Common Cause, which always talks in high sounding, far flying wonderfully ethical terms, if you really look at it, it is basically an organization that supports the liberal point of view in this society, and, therefore, the Democratic Party in this society.

I do not think anybody looking at it carefully would really tend to deny that statement, if they are honest.

The fact is, a lot of people do feel, and I think there may be some reason for that, that the organization called Common Cause is really just a front for the Democratic Party; certainly, in the very least, a front for the very liberal point of view in our society. They do not like conservatives being elected in either party, and they do not like the conservative point of view. They do not like some of the things conservatives stand for.

They have a right to do that, but they should not try to pass them off as the ethical institution that is really looking into these things through a bipartisan standpoint, unless you say bipartisan-liberal standpoint, because that is what they are doing.

The current system provides a number of Americans with access to the political process. Access they wouldn't have under S. 2. In addition, the current system requires public disclosure of all contributions to candidates. That is, except the soft money contributions which have been discussed at length here on the floor, and mainly which occur for and on behalf of, again, liberal candidates. Very seldom do you see any soft money from these sources go to a moderate candidate. They go basically to liberal candidates.

S. 2 fails to address the issue of PAC spending directly. If PAC contributions are corrupting the system then cut the size of their allowed contributions, as the Republican bill does, or eliminate PAC's altogether as Senators PACKWOOD and MCCONNELL have suggested. S. 2 won't cut overall PAC spending. PAC's will simply shift their emphasis to so-called independent expenditures which are not subject to the bill's spending limits.

I do not think there is any question about it. Again, you have to question why this bill, if it not just a bill to elect Democrats, which, of course, it is.

S. 2 will effectively increase the influence of specific PAC's by imposing an aggregate limit on PAC spending without reducing individual PAC contributions. Under this system, the best organized PAC's will have even more political clout than under current law. The argument that a $5,000 PAC contribution under S. 2 would have less influence than a $5,000 PAC contribution under current law is not convincing.

I think Common Cause has been clouding the issue, which is not unusual for them. They are very biased, partisan, and one sided in their support of the liberal policies in our society. I just say they have clouded the issue. The reality is that Democrats rely more heavily in big contributors and PAC's than do Republicans.

It has been a myth the Republicans are the party of the rich. If you look at the average contributions to the Democrats, you find they are very, very high contributions, and you will find, from a special-interest standpoint, nobody can exceed the Democratic Party in subservience. They love special interests, and they are supported by at least five of the major special interests of this country like nobody is. In fact, that is an absolute true statement.

Again, I make the point Common Cause is clouding the issue. The reality is, as I have said, Democrats rely more heavily on big contributions from PAC's than Republicans. Check the campaign finance reports for 1987. They support this statement. S. 2 hurts Republicans because it favors large contributors and PAC's and squeezes out the small donors who are at the heart of the Republican Party. They are our principal donors.

So the Republican alternative, as much as I have some disagreement with it, is a better alternative. If we really want to do something that is right, bipartisan, and really helps everybody, that makes the playing field level, my gosh, let us do the Republican alternative.

The Congressional Campaign Reform Act, S. 1672, it seems to me, is a much more significant effort at reform than S. 2. It attempts to bring the individuals back into the political process by adjusting the contributions and adjusting the limit on individual donations imposed in 1972 for inflation.

It attempts to close the millionaire loophole so wealthy candidates will not have a tremendous advantage in financing their campaigns. It requires disclosure of so-called, again, soft money expenditures for the corporations, labor unions, and nonprofit organizations which influence the outcome of Federal elections.

It is a far preferable bill and what we are trying to do is to do what is right here. The Republican bill also requires future reform under the auspices of a bipartisan commission, which would make periodic recommendations to Congress based on their own study and the recommendations of the Federal Election Commission. Some have suggested that embracing the individual contribution limit, the Republican bill favors wealthier individuals.

I did not make that argument. I certainly disagree with that. The $1,000 contribution limit has been in place since 1972. It has never been adjusted for inflation. Our costs have quadrupled in running. When I ran back in 1976, I spent a little less than $570,000. The last time I ran, it was in the millions, and I had to raise that kind of money just to compete with the soft money that came into that State. My campaign in 1982 was the number 1 targeted campaign by both the Democratic National Committee and the International Trade Union leadership. Not by my fellow union brothers, but by those who made the unions. They poured money into that State like it was going out of style. We had to raise a lot of money. It was, in my book, a real shame, nationally.

I might add that this $1,000 contribution limit has never been adjusted for inflation, and yet the costs have gone up four times, and in some cases, in my case, they went up almost eight times. It is ridiculous.

By combining an increase in individual contributions with reductions in PAC contributions, the Republican bill brings the individual contributor back into the political process.

To me, there is just not any question that the Republican bill is a far superior vehicle than the Democratic bill. I wish we had a bipartisan bill. But I can tell you this: I do not see any real desire for a bipartisan bill. I see a desire to gain an advantage. And I see a desire to do so knowing that they cannot gain advantage because this bill will never, never become law. There is no way that this President will sign it. There is every reason for him to veto it. He will, and we will have enough votes to sustain the veto. So why are we wasting this time after seven cloture votes? Again, the votes that I know of will defeat this in the Senate.

Again, it is tremendous waste of taxpayer dollars and a tremendous travesty, what is going on here. To keep people up all night long under those circumstances has to be very irritating to everybody, but certainly to my side. That is a just a joke, and it is a joke to cater to some of these people who will write as though this is really campaign reform when, it fact, it is campaign deformity.

What about the overall taxpayers? We estimate it will be $40 million so far in the last 10 months alone. Over a third of a billion dollars over the last three elections. We have a proliferation of extremists, a waste of tax dollars under the present system. A half million dollars to Lyndon LaRouche in 1984, $200,000 to psychologist Fulani to run for President. It has resulted in more bureaucracy, not democracy, these spending limits and taxpayer financing in practice.

One out of four campaign dollars goes to lawyers and accountants. It is incredible. In the 1980 Presidential race, $21.4 million was spent on compliance alone, as much as the most expensive race in Senate history. Campaigns must process each contribution through 100 steps. The political decisions have become accounting decisions.

We have to be more concerned about accounting and lawyers than we have to be about running for reelection.

True, I think it is important that people be honest in their dealings in these matters. It has become almost impossible to know what to do under the many rules and regulations unless you have a lawyer looking over everything that happens.

Some think that every candidate under this present system of spending limits and taxpayer financing in Federal elections becomes a person who cheats. Every major candidate since 1976 has been cited for serious violations of the law and in some cases large fines resulted for many.

I have had frivolous charges brought against me that have cost me all kinds of legal expenses and accounting expenses. Every time they have been frivolous. Frankly, who knows whether it is going to be fair or not. It is a little bit like a Republican conservative being indicted in this town. It is almost impossible for them to come out of that a free person. It makes you wonder.

There are some very, very sad things, some very, very bigoted things against the conservatives, and Republicans in particular, that come from this whole atmosphere engendered in this particular town.

I can cite one candidate who spent $2 million in his State with a $400,000 limit. Delegate and precandidacy committees are loopholes big enough to drive a truck through, a conduit for millions of dollars outside of spending and contribution limits. Corporations and labor can circumvent limits by paying office rent, phone deposits, and giving a generous allowance. If this should happen, I do not know that corporations do that very much, but I know it is done otherwise.

I think there is growing disrespect, may I say, for the law and the election process. Campaign managers have reported that their very first planning priority is to identify in advance ways to circumvent the limits and the rules. I do not condone that. I think that is wrong. But many of them try to do that, certainly in Presidential elections. Look at what happened in this election.

One observer and campaign staff member declared "This whole job is a shame. It is your job to find every loophole."

I think this would turn all of this process over to the special interests, which will be running rampant. It will allow them to exert control by spending outside the laws.

In 1984, in that particular general election, special interests spent $25 million to oppose Ronald Reagan; 82 percent of President Reagan's $40 million spending limit was spent by special interests to oppose him. Nearly half of the money spent in the 1984 general election, that is, $72 million, was outside the candidate's direct control. At least one-fourth of all the money spent in Presidential races is unreported, unlimited, and unaccounted for.

Soft money spending that I have been describing as I chatted has roughly tripled in each election cycle. Races resemble uncontrolled, corrupt politics of a prereform era. All of these things are true. Look at these things and it will make your blood curdle.

In fact, as I remember, back in 1982 when I was up for reelection, a group which was antiabortion decided to come in and interfere with my reelection. It was really offensive to me. Everybody knows my position on abortion. So these people thought they were doing me a favor. I did not want them to do me a favor. I did not want them in my State. I did not want their help. If they wanted to help me, they could have arranged to donate to my campaign or set up a PAC and donated directly. I preferred that, even though there were limitations on what they could do. But there was not a thing I could do. You could not talk to them because you were afraid if you did you would be accused of being in a conspiracy with them and you would be violating the law. There just was not anything you could do. You had to sit there and let knuckleheads come in and start running your campaign for you.

People do not understand your State, do not understand the people therein, and do not care. They think they are doing you a favor and, in fact, they are doing you a great injustice. It is really one of the really frustrating things about being in politics today, that you have people in these independent expenditure campaigns who come in and think they can do just about anything they want to do. I can tell you it was very, very frustrating to me even though at one time I considered these people friends, people who were allies. It was one of the most difficult times in my life to have to put up with that kind of stuff. I got burned up about it. It was just awful.

They thought they were doing it out of the goodness of their hearts, but they were not.

In spite of all this, all of this soft money and all of this independent expenditure approach, and all of this special-interest control of the election process, it certainly is not going to be stopped or alleviated by the Democratic bill, and that is what it is. This is not a bipartisan bill. There may be some good things in it, but it is a Democratic Party bill, to build the Democratic Party, to strengthen them and provide some sort of an election-year vehicle to have their friends in the media report it is Republicans who are against election reform.

Calling something reform is one of the sure ways of knowing it is bad.

I go back to the labor law reform of 1978. Just calling it labor law reform triggered in everyone's mind that this must be bad legislation or they would not be using labor law reform. It was. That was the reason they were defeated. There were 62 Democrats and 38 Republicans then. Those who sponsored and pushed that bill said they were going to walk all over us. They tried and it was hard. There were people who were really hurt physically as a result of that lengthy debate at that time. I know who they were.

It was difficult, but that is the way it was.

In spite of all this, special-interest money, soft money, independent expenditure money, the voter turnout has stagnated. It was 55 percent in 1972. It was down to 53 percent in 1984. Grassroots politics in campaigns has died. David Broder said, "Spending limits and taxpayer financing have shut down local campaigning and grassroots democracy has died."

That is a pretty strong comment, coming from the leading political writer in this town, especially one who certainly is not known for support of conservatives or moderates, even.

I have to confess, he is a great writer and a very intelligent man.

Well, I could go on and on. It is easy to see why Republicans are getting worked up about this legislation. It is easy to see why we get upset when we see the media unfairly reporting that this is really campaign reform. It is really upsetting when you see Common Cause presenting itself as a body that represents all the people when, in fact, it represents all the liberal people and primarily one party.

Like I say, there are many who feel that it is a Democratic Party bill, and I think that feeling is sometimes justified, in spite of the high, wonderful, and ethical statements that occasionally come out of the lips of the leaders of Common Cause.

I have to confess, I have not seen much bipartisanship. Occasionally you do, but not very often.

Let me just end by again citing my dissatisfaction with what happened last night. I know that it is a very difficult job to be majority leader in this body. I learned to appreciate that over the years, and I know that I have, from time to time, made that job even more difficult, and sometimes I have been wrong. As I look back over it, I do not think many times but sometimes I have been wrong. I have made the majority leader's life difficult. It is difficult when you are trying to push something that is worthy, and people assert their rights and stand up and fight against it.

But this is not even worthy. If this was worthy, even then I would not jus-

tify what happened last night. But it is not even worthy. This is a bill that is so poor that literally, even if some miracle occurs and they pass this bill, and there are those of us on this side who will do everything we can to make sure it does not pass, but even if it did it is going to be vetoed and we are going to have without question the votes to sustain that veto. So we are really spending hundreds of thousands of dollars needlessly and wasting the time of this great body. For what? For political gain desired by some people? That is what I think it really comes down to. I think that is really pathetic. To have done what happened last night I think is reprehensible. I have to state that in spite of my sympathies with the difficulty of serving as leader of this body.

With that, Mr. President, I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. Breaux). The Senator from Minnesota.

Mr. DURENBERGER. Thank you, Mr. President. I must indicate to my colleague from Utah that I have enjoyed listening to his comments this morning, and I do certainly understand his frustrations and probably the frustrations of everybody on both sides of the aisle in dealing with the very difficult subject probably at a very difficult time.

One of the things that I find somewhat difficult about justifying to any constituent that might ask me why I was not arrested last night or why, while all of my constituents were at their present caucuses, I was trying to figure out how much of my life I was going to commit to another filibuster on this issue, is explaining why we are doing this in an election year rather than some other point in time. And I suppose the honest answer to it is that the proponents tried to do it in a nonelection year so here we are in an election year trying to finish off the work.

But those same constituents ask you, "Well, aren't there more important things to be done in this country other than to push this bill?" And I think I have some difficulty as a present candidate for reelection as I look at what is on people's minds in my constituency and across this country justifying the amount of time, the amount of energy, and the amount of effort that has been put into this, including the effort last night to arrest all Republican Members of the U.S. Senate.

Fortunately, most of the commentators in this country are going to be busy commenting on Pat Robertson's references to GEORGE BUSH's activities in Louisiana or other things, and they may not be paying much attention to BOB PACKWOOD trying to keep his door from being broken down in the middle of the night, but there is a certain aura of unreality about this as I felt this morning driving into the Capitol at 4:30, to begin to make some arguments that I want to continue making as long as I have an opportunity to make those arguments against S. 2 and its most recent amended form.

First, I would like to say I heard some reference somewhere, sort of I guess by way of a characterization of some of the supporters, and I want to say on behalf of at least most of the people in Minnesota who have contacted me over the last year or two in support of S. 2 and against my position on it, they cannot be easily characterized other than to say that they are all very honest, very sincere people who have committed some part of their lives to trying to make this system work better. It is just that many of these people, most of whom seem to be associated with an organization called Common Cause, as I said this morning in my remarks, seem to be approaching this problem from the wrong end because if the solution to this problem is to get more representative democracy, then I cannot find anything from now 20 years of experience with election law financing, I cannot find anything in any of these versions of S. 2 that is going to make this place more representative than it currently is. In fact, one of the interesting things is to try to get 100 Members of this body here at one time and ask them just to look around this body and find out who should not be here or who would not be here if somehow or other this campaign financing system worked differently. I do not think that the kind of changes that are being proposed in S. 2 would change the makeup of this body.

So then the second argument very clearly is, well, it changes your behavior, the current system somehow or other changes your behavior. That is the argument that is often made to me, most recently the week before last. I spent much of the week in Minnesota holding hearings on ground water, which is probably the most serious environmental problem in my State, in the rural areas of my State in particular. Ground water is one of those unique environment problems that is not prevalent across all sectors of society and it is not an urban problem, so we do not read much about it, we do not take pictures of it. It does not flow down the Monongahela so that it can frighten people down river from Pittsburgh. It just goes right through the ground into the water supply and poisons all the water of farmers and folks in small towns.

But anyway, I am going all over the rural part of my State with a series of hearings on this subject and at each of the hearing sites there are members of Common Cause gathered to pass out literature saying somehow or other I am standing in the way of reforming the election laws in this country to make the system work better, and make it more representative, and so forth.

But in one of these stops, the blizzard was going on outside and the temperatures were down below zero, and it was one of those days when Minnesotans usually stay indoors, but there were a couple of members of Common Cause who, after they patiently sat through an hour and a half of ground water talk, came up to me and said, "Senator, tell us, why is the present form of campaign financing good for us as your constituents?" And I had to think very quickly. I did not know what they were going to ask me about. I said, "Well, I think the first thing is that it makes the system more representative. Since political action committees, for example, as one part of the current system that you object to have become more prevalent, I have seen a lot more people involved in this system." Folks are amazed to find out that RUDY and I have something like 65,000 to 75,000 contributors to our campaigns in Minnesota.

Well, in part that is because a lot of the activity carried on by political action committees, and companies and professional associations and business associations in my State have gotten more people involved in the political process. It is always an amazement, to those of us who have been in politics for a long time, how hard it is to get any money out of anyone for a politician. It is like I gave in my paycheck when my payroll taxes were deducted, or my income taxes were deducted. Why should I give some money to a politician. So it has always been hard for those of us who consider ourselves in some form a public servant to understand why so few people are willing to make contributions.

One of the things that I observed in Minnesota, and I made some more observations about this morning, is that the growth of the activity generated by political action committees has gotten a lot of people to put $5, $10, $15, $25 in the pot at work, sort of like nobody would give to the Heart Fund or cancer or the Children's Crusade or something like that until the United Way came along and became an institution inside an association or a company and annually you had to cough up your contribution to the United Way. Now there is more of that kind of activity taking place in associations of people, so there are more people contributing to the process.

I did not give them all that explanation. I just said the reality is there are probably two or three times as many people contributing today to political campaigns as there were in the pre-Watergate period. Maybe it is four times, maybe it is five times as many individual contributions being made to

campaigns. And what happens when somebody makes a contribution regardless of size, they insist on telling you how to spend the money and so they become instant experts on a variety of issues and they want the Senator to come to the company and explain what he is doing, and they get on the phone and they write the letters and they get on petitions and all of a sudden people are more a part of this process.

As a result, I said to these two people, "If you are concerned that we can't see the forest because of these single issues or these special interest trees, be assured that this need to get more financing under the political system has in effect represented a lot more of the trees in the forest and it may still be that it is hard to see the forest, but I do not think that is because more of the trees are not standing up and asking to be heard. So if you are interested in more participation in the process, you are getting a lot more under this system than you would if you turned the system over to the taxpayer to be financed at public expense or if you limited the number of dollars that could be put into a campaign."

The second answer sort of came off the top of the head also and that probably was not going to be persuasive, but the second thing I thought of is that to the degree that these united or federated kinds of giving such as you see in the political action committees can be encouraged, you cut down the cost of fundraising very substantially.

One of the unfortunate things that I have noticed over the years in this political fundraising business is that the cost of collecting the money, whether it is telemarketing, which is one of these latest inventions—everybody is on the phone at night catching you when you are trying to doze off or have a conversation with your spouse—or the direct mail campaign—mailing lists get run all around the country so everybody gets your mailing—whatever the case may be, the costs of spreading the base under the system are rising. So I said to the degree that somebody else can help in the collection process, all of us benefit. In other words, more money goes into the message than goes into the fundraiser.

Those are two things that came quickly to mind, but then they got to the heart of the problem as I am trying to get out of the door because I have got to get in the car and go through the blizzard and get in the airplane and fly to the next town where it is going to be 30 below. They said, "But, Senator, can you deny that if we had public financing of elections, we would not level this playing field among all of these Senators and all of these Congressmen, and so forth? Isn't it a reality that if we would limit these expenditures, have public financing of the system, that everybody would be sort of equal?" And I said, "You are absolutely right, absolutely right." I said, "You would not be able to tell—it would be so level, it would be so even, you would not be able to tell whether your Senator was one of those Senators who comes here for an hour and a half on ground water this week, comes back on rural development next week, comes back to save your rural hospital next month, worked on long-term care last week or whether your Senator is one of those guys who comes every 5½ years, picks up a check from the Government and sells you his so-called accomplishments in 30-second televison commercials."

And with that, I had to leave, but the message clearly is that if you want to homogenize this system there are ways to do it. If you want to distinguish between the committed public servant, who is responsive to a constituency because he needs that constituency for more than a vote, you can do it. You can use tax-paid financing, you can have everybody check off somebody else's dollar on the tax form and then every 5½ years we will go around and we will pick up our check just like they do every 4 years in these Presidential races, go and pick up a check and go out there and use television or some other media to try to sell themselves.

Now that I have made some reference to the Presidential race and public financing—and I did not want to deal a lot today on the issue of public financing, but I spoke earlier about my experience putting the Minnesota public financing together, and I think I was on that commission as I indicated from its inception in 1974 until I resigned in the latter part of 1977 or 1978, but I indicated to my colleagues in my previous comments that I had as vice chair of that bipartisan committee lived through all of the growth of public financing in Minnesota and through Buckley versus Valeo and so forth, and one of the things that always sort of astounded me in the level playing field business is that practically anybody can get into the game and that I suppose it is some advantage, people would consider that an advantage that anybody can get in and anybody can get some notoriety and they they can go off and use that notoriety for whatever purpose. But there is a lot, in proportion to the dollars that are being spent on campaigns, of public or taxpayer money going into financing the activities of people who in this year at least seem to have other resources to commit.

Bruce Babbitt, as of February 10, 1988, has picked up a check from the taxpayers for $870,133.58, and that will contribute to Bruce's education and to our education, and he is now back in Arizona.

Pete du Pont, who I think is back in Delaware, picked up a much larger check. It seems kind of incongruous writing out a tax check to a Du Pont, but we did: $2,300,502.23, written to a Du Pont for a campaign that I think got him 3 or 4 percent of the vote, at the most. Obviously, Pete du Pont, I think, would have been a candidate with or without the matching funds. Whether some of these other people would or would not, I really do not know.

The point of my comment, however, is that there is a lot of money going into campaigns that are not going to result one way or another in the Presidency.

There is another fellow by the name of Fulani. Is there really that kind of person? Someone by the name of Fulani picked up a check for $262,676.23 to run for President of the United States. If I am wrong, I will correct the record.

I have been looking for Harold Stassen on here. I guess Harold did not seek to qualify, although he is a candidate. But Fulani must have, and you all out there made it possible for him to spend $262,676.23 of your money.

Mr. BOSCHWITZ. She.

Mr. DURENBERGER. She.

DICK GEPHARDT collected over $2 million.

Al Haig, in addition to the speaking fees, and so forth, that he is going to pick up as a result of this candidacy, will also pick up $439,384.65, which should go a long way to keeping his tennis game in good shape.

Gary Hart: Others, I am sure, have commented on this one before, in terms of the incongruity of a person who left the 1984 election in second place with a lot of debt and coming back a couple of times into this campaign and picking up a check for $1,116,881.99, to be precise.

JACK KEMP, $3,908,813.66.

Pat Robertson, $6,596,447.28.

PAUL SIMON, $1,876,016.71.

A total of $17,370,856.33.

So, that is sort of the national record, if you need a current record of how creative we can be when we go to tax-paid financing of these campaigns.

The issue of public financing or tax-paid financing of a campaign, as I say, is one that I have some experience with—some of it good, some of it not so good. But I do not think that is really the heart of the issue before us with regard to S. 2. The heart of the issue, as I have said a couple of times, is whether or not you are going to improve the operation of this election system or if you are going to improve the quality of the representation we get.

I do not know that any of us can judge what it is going to take to im-

prove the quality of anything around here. I see people I serve with in this body—I do not think that if I set out to do it, I could assemble a better cross-section of America or a more highly qualified group of men and women than gather each day and each week in this body.

I think the system today works pretty well. In fact, much as I have spent time as a reformist, trying to figure out other ways to do this system, I have never been able to come up with anything.

The attack on the system, however, never ceases, and most of the attack is around money and the influence money has, one way or the other, in election campaigns, and the influence money has in making decisions around this place. Where are you going to put your efforts? Where are you going to put your time? Where are you going to make your commitments in terms of your vote, your efforts in committee, choice of committee assignments?

Mr. President, I remember the first 4 years I was here, and I reminded my colleagues this morning that I never wanted to come to this place.

I did not have the benefit that the Presiding Officer, the Senator from Louisiana [Mr. BREAUX] had of observing the Senate from the House and finding from that perspective something more attractive about this place. I do not know how he feels. I am sure he does. Some have come from the House and said the view is different from reality. I am sure that my colleague from Louisiana thinks it is different. I am sure that if anyone has had the benefit of looking at this place from the House, it looks sort of attractive. I did not have that.

I did not want to be in the U.S. Senate. I got here somewhat by accident. I wanted to be a Governor, and it was not working out, and there happened to be an opening, and folks shoved me into the direction of the opening.

So, I spent a lot of time in the first 4 years I was here responding to the question: "Does the fact that you have to run for reelection have a big impact on how you make your decisions? Isn't the need to spend a lot of money in your campaign a clear factor in how you make your judgments?"

I said: "Well, on the first one, I can answer it right off the bat. On the second one, you will have to wait until after my first reelection and I can talk about it."

I said: "The first one is easy. There are two ways to come into this body. One is figuring that you are going to keep your finger wet all the time and try to know which way the wind is blowing, and the other is to do the best with what you have."

That is the way it works back home. The wind comes from many different directions around this place, so that was not much help.

Most of my colleageus on this side of the aisle have settled down to do their best with what they have. We have parochial interests. I have a Minnesota interest. The Presiding Officer has a Louisiana interest, as I notice in his activities in the Committee on Environment and Public Works. Each of us has that kind of parochial interest. That gets reflected in the committee assignments we take on. That is reflected in the kind of a presentation we get involved in. That is reflected in the kind of financial support that comes to us from a variety of political action or other kinds of committees.

So, I did not have a lot of problems with the notion that, in one way or another, I was not going to be influenced in my decisionmaking by the fact that I had to run for reelection. But people would always point to my races and say that it cost $4 million in Minnesota, $6 million in Minnesota, whatever it is—"You have to go out and raise that money yourself. You're not a millionaire. So, can you in fact tell us if that makes some difference?"

Well, when I got through with the 1984 campaign, in which I ran against a person who financed his own campaign, without even touching his spouse's inherited wealth, I was in a good position to answer the question, because I had to raise $3.4 million to stay in the race, and I had to raise it from poor people.

I can honestly say, as a result of that, yes, having to raise money does influence where you put your time and effort. There is no question about it. Those who are interested in the political system, those who care enough about the political system to get involved in one way or another, as either contributors, potential contributors of information, of education, of pressure, in terms of the mail room—all those who are interested enough to get in the process through the fundraising are the ones you pay attention to.

My mail room clogs up with 15,000 or 30,000 letters a week. I have to pay attention to what is clogging up that mail room. By the same token, if I am not a self-financed politician and I have to go out and raise the means whereby I can take my message to the electorate, I have to pay attention to the sources of potential contributions.

I went to the Rules Committee, I believe, at the end of January 1983, when the Senate was holding one of its very first hearings since Watergate, on the issue of political action committees and their influence on the political process. I think some members of the Rules Committee had experience in the old Watergate Committee. I obviously did not, because I was not around here. I think that probably a lot of them, because of the pressure from those who assumed that money translates into pressure—that the need for it translates into susceptibility—assumed that one of the recommendations that must have come out of the Watergate Committee in the Nixon era was that we get rid of political action committees, that we get rid of the special interests, that we chop down the trees so we can see the forest, that we bring in tax-paid financing, public financing, into this system, to level the playing fields, which these two people from Rochester told me it would do.

Let me read specifically one of the recommendations of the Watergate Committee with regard to election financing. This is called campaign financing recommendations. It begins at page 563 of the final report of the Senate Select Committee of Presidential Campaign Activities. The specific reference to public financing is not very long. It begins on page 572 and goes to page 573. It is their recommendation No. 7 on campaign financing. Remember, this committee is bipartisan, and I think it probably has a predominance of the then-predominant political party, which was not mine.

The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a sytem of essentially unrestricted, private financing.

What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

Mr. President, as I remarked earlier in the day, down at the relatively ob-

scure level in the State of Minnesota, I was in the middle of doing precisely that, reforming the system to expand the involvement of voluntary private contributions. Today, I am the beneficiary in my campaign of that effort.

I probably have a base under my campaign that might amount to maybe 150,000 individual contributors. I am not sure of the number. Many of those people are direct contributors, but a very substantial number of those people, maybe as many as half of them, have contributed through political action committees.

The interesting thing to me is that the individual contributions are smaller that come in through the political action committee than are the contributions that come in directly from private givers.

In my campaigns, three now—1978, which was a $1 million campaign against a $2 million millionaire, the 1982 campaign, which was a $4 million campaign against a $7.5 million millionaire, and the campaign in which I am currently engaged—there has been, and I think probably my colleague from Minnesota might bear this out as well, a sort of uniform proportion, about 25 percent of all of the money raised in our Senate campaigns in Minnesota comes in the form of checks collected from employee, professional association members through a political action committee.

While it is true that the contributions of these political action committees are characterized by Common Cause news releases or Ralph Nader news releases as "Durenberger Number 2 in Oil Money," "Durenberger Number 1 in Chemical Money," "Durenberger Number 3 in Dairy Money," the reality is that the contributions reflect the constituencies inside my State.

Just like you, Mr. President, I am sure it is true your contributions reflect the constituencies in the State of Louisiana. It does not mean that some contributions do not come from California or some contributions do not come from Maine, but they reflect the particular interests that dominate the constituencies in your State, as they do in mine.

Agriculture is No. 1. Health is right up there. Chemicals, in the sense of pesticides and insecticides and fertilizers, is a big part of agriculture. It is not my votes on windfall profits taxes, and things like that, which are generally sympathetic to a lot of interests the Presiding Officer may have an interest in. It is because there are other ways in which chemical interests have an association with my State.

So each of us in this particular case finds that in the base under our financing. People who have a strong interest in formulating public policy through a particular constituency, and a servant who can serve that constituency, have an opportunity to make these contributions. But the point, again, is not a dominant factor in my campaign. It is a pretty consistent 25 percent.

It is interesting to me, when you get over into Democratic House races in Minnesota, and I must say, because this is the reality, and this is one of the things that mystifies me about why we are debating on S. 2 which only takes care of the Senate and does not touch the House and which seems to make PAC's out to be a selfish interest, in my State, JIM OBERSTAR, who represents the Eighth Congressional District, which I do not think has ever elected a Republican, has over 75 percent of his campaign contributions coming from political action committees. BRUCE VENTO represents the Fourth Congressional District and has for a long time. Before that, it was represented by Gene McCarthy who spent a long time in this body. I think the last time that district elected a Republican was probably a fellow by the name of Ed Devitt, I remember this, in the 1947-48 Congress.

BRUCE VENTO has nearly 80 percent of his campaign contributions coming from political action committees. I could go through some of the other Members of the House as well. I might as well. It has been handed to me.

This is from today's Federal Page. While we were busy down here talking and submitting ourselves to humilities, the Post was doing a story called, "They 'PAC' a Wallop," PAC P-A-C. It appears on page A23 of the Washington Post, Wednesday, February 24, 1988, right above the wonderful picture of Will Ball taken many years ago, I think.

In the little box entitled, "They PAC a Wallop," it indicates the amount of money going to House Members up for reelection has jumped 44 percent, and it shows here, for the purpose of these comments, the percentage of money that is coming from political action committees.

TONY COELHO, a famous name in Democratic fundraising circles, 51 percent of the contributions to his campagin come from political action committees. BYRON L. DORGAN, a famous name in my neighboring State of North Dakota, a Congressman who represents the whole of the State of North Dakota, a Congressman who, unlike the Presiding Officer, chose not to come to the U.S. Senate because of the way he was barred by fellow Democrats. He represents the whole of the State of North Dakota. He gets 68 percent. Again, another Democrat, 68 percent of his money comes from political action committees.

BERYL ANTHONY, JR., who I think replaced TONY COELHO as the Democratic leader of the campaign committee on the House side, represents the State of Arkansas. I guess my picture of the State of Arkansas is not full of selfish interests, special interests, big oil wells, and lord knows all the rest of that sort of thing. I guess if anybody had a broad base support in the campaign, it would be the Congressman from the State of Arkansas. Not so. BERYL ANTHONY has already received $207,187 from political action committees, or 74 percent of his contributions come from political action committees.

I could go on through the list. I see BILL GRAY here, the chairman of the Budget Committee, from Pennsylvania, 79 percent of his contributions come from political action committees. I do not know, but all I have heard about BILL GRAY, and what I know of him personally, is that he is a man of the highest stature, a very capable person, a person who you would not, because of the fact he has taken on something as impossible as the budget, think could be accused of being a tool of the special interest. Here he is, 79 percent of his contributions from political action committees.

That is only to say that I think it is, one, difficult to come to judgment on the process by coming to judgment on either the amount of money or the source of money that goes into campaigns.

Second, you are not going to change BILL GRAY, you are not going to change JIM OBERSTAR or BRUCE VENTO. You are not going to change this Senator, or anybody else that I know in this body, by adopting S. 2, by eliminating this so-called special interest and substituting for it the biennial or every-sixth-year trip to the Treasury to pick up a check from the taxpayers in order to finance these elections.

Mr. President, I use this occasion not to accuse the authors of S. 2 of some particular selfish interest of their own. I do not think that is true. As I said earlier, whatever characterizations of Common Cause, or some of the other supporters of this bill, that I may have heard on this floor do not apply to the members of that organization in my State.

I think that we have more common cause in what we are doing here than meets the eye, but our frustrations ought to be taken out on some part of the system, other than the financing of elections.

The bottom line in a lot of this is whether or not campaigns really need to be reformed, and the test of whether or not we ought to reform the system, I suppose, at least in an election sense, is whether or not Senate races are competitive or is this an establishment from which the incumbents cannot ever be ousted.

I guess it was my impression that at one time in the history of this body, probably back in the pre-Watergate era, back in the 1960's, the 1950's, the

1940's, that once you arrived here, you stayed forever.

I currently enjoy going to, as I did this morning, the weekly Senate prayer breakfast where a number of our colleagues get together and are often joined by some of our former colleagues. It was a pleasure, once again, this morning to hear our former colleague from West Virginia, Jennings Randolph, tell us about his very first Democratic Convention, which was in Baltimore, in 1916 when he went with his father, who was a delegate to that convention which eventually chose Woodrow Wilson, over Champ Clark, to be the Democratic nominee for President, eventually the President of the United States. So it is my impression that once Jennings Randolph, and I believe he told us he came here with Roosevelt in 1933, got here, he stayed here. That is the way it has always been in this place.

I guess the realities, as we know very well, are quite different. This Senate has changed hands twice in 6 years and, it seems to me, as I have watched this process at work, the incumbents are getting knocked off right and left. I look at the little blue license ID tag in the window of my car every morning, because I have to take it off my visor so it does not kill me, which my colleague from Colorado advised I do, and put it on my dashboard so I can get through the flower pots out here, and it says S. 45. I am amazed at how far I have come in a short period of time, and I think that is because the elections for the Senate are clearly competitive. There is no evidence that I can find that the system is broken.

As I stand for reelection for only the second time, 55 out of the Senate's 100 Members have less seniority than I. In January 1989, depending on how things go, I may be in the top one-third in this body. At least 16 of the Members below me got to the Senate by beating sitting incumbents. So I ask, how level does the playing field have to get?

I would conclude my remarks with a few observations on what I think we ought to be doing.

If we are going to do some reform to the system this year, next year, or whatever, I have a couple of thoughts as to what we ought to be doing.

I do not think first of all we should change the campaign rules in this country, particularly for a body like the U.S. Senate, by a party line vote. You sure do not do it when that party line vote is as close as we currently have.

The first thing I would do would be to convene a bipartisan commission to study campaign reforms, just like we did in Minnesota back in the 1970's. I would find a consensus approach and a consensus solution to this problem.

The second thing is I feel equally about the House and the Senate. I have just gone through some examples of what is going on on the House side. If it is sauce for the goose here, it has to be sauce for the gander over there. I do not have to agree with that theory. Well, I agree with the theory that what is sauce for the goose is sauce for the gander, but not the theory that there is anything wrong with the sauce. Anyway, if we are going to do it on the Senate side, why not on the House side?

The third thing is to adjust the contribution limits for inflation.

The fourth thing is to try to get rid of the millionaire's loophole.

The fifth thing I would do is encourage more voter turnout participation. Rather than just spending taxpayer money on the Liz Fulani, Alexander Haig, and Pete duPont, I would be spending it on other people coming into this process, so that more people like Minnesota could be voting 75 or 80 percent of their electorate.

Finally, and I have said this many times before, the main reform that needs to take place in this system is with regard to the participation of political parties. Until we change the contribution limits so that political parties can participate in elections, you are not going to get anything other than 100 of certain Members in the Senate and nothing more than a great deal of difficulty in making decisions in this place.

Probably, the ultimate reform is the notion that in a $6-million campaign only $300,000 can come from the Republican Party, not making me in any way beholden to the Republican Party.

I think that is unfortunate. I think that is unfortunate for all of us. It lends an air of lack of will, a lack of discipline in this place, and of the areas where we want to go to make some changes in this system in addition to the ones I have already mentioned I would recommend that as such an area.

Mr. DURENBERGER. Mr. President, while I think of it, having been here since early this morning, I express my appreciation to all Members of the majority who willingly or not, or cosponsors or not, have to sit in the Chair up there and listen to all of us so-called experts during the course of the debate. We are certainly grateful to them as well.

Mr. KERRY. Mr. President, I was interested in the comments of the distinguished Senator from Minnesota. I believe he has made some good suggestions which I am sure the majority sponsors would want to entertain in some real discussions, whether adjustment for inflation or other reforms which he has suggested.

But I was also struck by his listing of the candidates who accepted this money and without motives, et cetera. I wondered how he would respond to the fact that the minority leader, Senator DOLE of Kansas, is running for President and remains adamantly opposed to this bill. He talks about the evils of accepting public money. He says that is a terrible concept. And yet he sent a letter to the Federal Election Commission asking for Federal funds. He is currently running for President using the very system that he abhors. I wonder if he does not find a level of hypocrisy or talking out of both sides of the mouth in that particular approach.

Mr. DURENBERGER. No. I do not find hypocrisy in that at all. If I were BOB DOLE or in a BOB DOLE situation I would not want to say I will be a big hero, I will sacrifice my running for President on the grounds of consistency. That is one of the problems of running for President. You have to live with the current rules. As long as Pete du Pont will get $3 million and Pat Robertson will get $6.9 million, I think it is all right for BOB DOLE to say, "Even though I do not agree with public financing, I will go along with this." I do not find that particularly inconsistent.

Maybe there will be a day and an opportunity when he will be President to say we ought to change the way we do public financing of the Presidential elections.

Mr. KERRY. One other question, if I might ask my colleague, if he will yield further.

Mr. DURENBERGER. Yes.

Mr. KERRY. I listened also to his assertion that most of the money that comes to each of us as candidates comes to us as a representation of the constituencies we represent. If it is Senator DURENBERGER with oil or Senator DURENBERGER with Medicare or whatever, I want to ask my colleague if he truly believes that a Senator who comes from a State which has nothing to do with communications but finds himself on the Commerce Committee, or a Senator who comes from a State in the Southeast has no particular interest in the committee which he or she is on, does the Senator really want to say that this system does not find an enormous gravitation of particular interests within committees directing money towards Senators on those committees?

Mr. DURENBERGER. I will be glad to respond to that.

Mr. President, first I ask unanimous consent that my statement before the Rules Committee on January 26, 1983, pertaining to this matter, be printed in the RECORD.

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

TESTIMONY BY SENATOR DAVID DURENBERGER BEFORE THE SENATE RULES COMMITTEE CONCERNING FEDERAL ELECTION FINANCE LAWS, WEDNESDAY, JANUARY 26, 1983

I appreciate the oppportunity to come before the Committee this afternoon. And I want to congratulate the Chairman for having the foresight to begin this Congress by looking back at some of the lessons we learned in the 1982 campaign.

We are all elected officials, and we have all had personal experience with the workings of today's campaign finance laws. My experience is simply more unique than most.

In both my 1978 and 1982 campaigns, I faced political opponents with immense personal resources, and a willingness to invest those resources in the pursuit of public office. In 1978, my opponent spent $2.1 million, the great majority of those funds from his own resources. In contrast, my campaign raised and spent $1.09 million.

The numbers from my 1982 race are simply overwhelming. My opponent Mark Dayton, spent in excess of $7.1 million. All but a few hundred thousand dollars of that war chest came from his own personal fortune. When the final FEC Report is released next week, it will show that between 1978 and 1982, my campaign raised a total of $4,147,547.00. Of that total, $2.8 million came from 34,200 individual contributors who gave an average of $90.00 apiece. $1,068,467.00—25 percent—came from 688 political action committees, and $275,000.00 came from party funds.

These figures make the Durenberger-Dayton campaign the most expensive in American political history—something of which I am not proud. But the figures also demonstrate that there is something very right about the current system of campaign financing.

That system, with its emphasis on individual participation, enabled an individual with no appreciable personal resources to compete successfully against these immense sums of personal wealth.

It provided voters with detailed information on where each candidate raised his money, so voters could make their own judgment on the candidate's support and independence.

With its limits on individual and PAC giving, it provided an incentive for tens of thousands of individuals to become stakeholders in the campaign—a terribly positive development in an era when the need for citizen participation in government has become so apparent. Yet at the same time, it limited the degree of participation to prevent any one individual from gaining a financial influence over any candidate.

For all their magnitude, the fact that I am before you today is solid evidence that the weight of these dollars did not decide the election. Nor did they discourage voter participation, as a near record 62 percent of the voters came to the polls—the highest turnout in the nation.

I am not suggesting that today's system is a perfect system. I believe strongly that campaign reporting laws need to be strengthened, so they can be more accurate in reflecting indirect expenditures that benefit a candidate, and more timely in their report of last minute expenditures that can so easily change the character of a campaign. History has proven the wisdom of the tight limits placed on PAC and individual contributions, and those limits should be retained. We need to broaden the concept of limitation to include both the length of campaigns and the total amount a campaign can spend. And we must find a constitutionally acceptable mechanism to insure a level playing field by making these limits applicable to all candidates, whether they finance their campaign through contributions or a combination of contributions and personal wealth.

I am certain that other witnesses will outline other areas where present laws can be refined. But as the Committee considers these proposals, it is essential to keep in mind that we are dealing with a system that has proven in practice to be fundamentally sound. We should adopt change for the sake of improvement, but not change for the sake of change. Many of the more strident charges levied at our system of election finance are more rhetoric than reality. And I think that is particularly true in the area of political action committees.

Although my campaign was well below the national average in the percent of its funds raised from political action committees, I suspect that the final FEC Report will place it first or second in the all-time list of PAC recipients in absolute dollars received. And in my case, I can assure the Committee that the 24 percent of my funds that came from PACs—like the 75 percent that came from individual donors—played a critical role in opening the political process by enabling me to compete on a fair basis against the immense resources of my opponent.

I do not buy the argument that the influence of a Senator can be purchased with either PAC or individual contributions. The existing contribution limits preclude that possibility. In my campaign, the 688 PACs contributed an average of $1,553.00 each—in a $4.1 million campaign. In other words, the average PAC contribution amounted to 3/100 of 1 percent of my total campaign expenditure; even the largest PAC contribution was no more than 2/10 of 1 percent of my campaign funds. Under no circumstances could these legally limited contributions be deemed significant enough to make any Senator "beholden" to the contributor, or for that matter, any more thankful to the PAC than to any of the 34,200 individual contributors who also supported the campaign.

Nor do I believe there is a qualitative difference between PAC contributions and individual donations. PAC funds come from individuals, large numbers of individuals who contribute to their political action committees. I do not understand why a $1,500 contribution from the Acme PAC can be deemed pernicious, while a contribution of equal size from the President of Acme or several of its stock holders is not.

I am no more impressed by the argument that the proliferation in the number of PACs establishes a need for reform. Actually, it suggests precisely the opposite conclusion. The increase in the number of political action committees reflects a general increase in the interest and involvement of millions of Americans in their system of government. That increase is itself a function of a better educated public, and better systems of mass communications. It would have asserted itself in one form or another even if there were no PACs.

Furthermore, a system in which elected representatives are being supported by a diverse, pluralistic collection of 3500 political action committees is far superior to the system it replaced—in which a small handful of "fat cats" with access to Washington Lobbyists had a corner on access to the legislative process. The period from 1976 to 1982 has been an era of participation, an era in which the base of the political process has broadened considerably. The law creating political action committees did not cause this change. It came about because the people of this nation were tired of a system of government dominated by a few centers of power. They demanded a more open system, and the political action committee provided a working mechanism through which they could open up that system and broaden its base.

It is a serious mistake to suggest that political action committees act as one monolithic group. Their positions are as diverse as the citizen interests they represent. My own campaign received financial support from sources as different as corporate political action committees and social action PACs, such as "KIDPAC." Even within the corporate world, political action committees reflect the same diversity of opinion that characterizes their corporate sponsors—large and small business, banking and thrift institutions, trucks, railroads, barges, and airlines.

The truth, Mr. Chairman, is that political action committees have had a positive impact on the political process in their own way. Through their own organizing efforts, tens of thousands of American citizens have become active, contributing stakeholders in the political process for the first time in their lives. These contributions open the door to individual contributions of time and financial resources in the future. Candidates seeking PAC funds have been forced to go outside the traditional Washington "money community" and explain their views to a broader cross section of their constituents.

Several times during my campaign I visited associations at the invitation of a political action committee. What I usually found was a room filled with working people who wanted to know why the money they had collected through their political action committee should go to me instead of my opponent.

For their small individual contributions, these people had the opportunity to ask their United States Senator how he felt about social security, what he would do to put more people back to work, how he would end the arms race.

What they saw was a United States Senator asking men and women for their votes, and in return being asked to consider their views. In other words, it was a Senator taking his record to the people and asking to be judged on that record.

We have all heard the charges that "out-of-State" political action committees divert the loyalty of elected officials from the best interest of the people they represent. But in practice, Mr. Chairman, the interests of the people in our States are mirrored in the pattern of contributions we receive, as they are in all other forms of political support we generate.

It is certainly true that Senators often receive a large aggregate of contributions from PACs and individuals in given trade or issue areas. But if you look closely at the breakdown of those contributions, I suggest you will find that they reflect the interests of the States those Senators represent. My own campaign is a case in point.

I am not ashamed to tell this Committee that 11 percent of my political action contributions came from agriculture. However the members of this committee might feel about dairy issues, price supports and agricultural trade, these issues are critical to a very large

share of my constituents. They are Minnesota interests I am proud to represent. And the large share of my financial support that came from agriculture is a direct reflection of the needs and concerns of my State.

Another significant percentage of my funds came from basic industrial, such as steel and rail. Steel is one of the largest employers in my State, and I am equally proud of the efforts I have made to help that industry create jobs for tens of thousands of unemployed Minnesota steel workers. The high percentage of contributions that I received from that industry reflect the high stake Minnesota has in its future. I could go on, but I think the point is clear. The concentration of PAC support for candidates within certain trade and business groups is a function of the same forces that influence all other forms of political support, financial and nonfinancial. They follow and reflect the interests of the candidate's constituency, they do not clash with those interests.

It is also essential to bear in mind that a significant percentage of the Nation's political action committees are association PACs—groups like the realtors and the automobile dealers. They provide an avenue of political involvement for millions of small firms and individual proprietors in States like yours and mine. The dollars contributed by association members in my State help build these funds. And the opinions expressed by my constituents play a decisive role in determining whether these associations will support my candidacy or the candidacy of anyone choosing to run against me. Their voice is Minnesota's voice, and their judgment is the judgment of my constituents.

Yes, Mr. Chairman, these contributions are a way for people to influence the political process—in the same way as organization endorsements, volunteer help, and 35,000 letters on interest and dividend withholding influence the process. And by giving the American people more effective ways to become stakeholders in the political process, these mechanisms have strengthened the process itself. We have now discovered that there are more than two sides to an issue, that there are more possible answers, and that people care about what we do and how we do it. They understand that they have a right to influence our thinking, and that an election is a test of our listening ability.

Where the political system has failed, it has failed because those of us elected to serve in that system have failed to demonstrate consistent leadership. Let us not blame those failures on political action committees or the people who comprise them. Instead let us work together with those people to bring more Americans into the political process and strengthen our government from within.

Thank you, Mr. Chairman.

Mr. DURENBERGER. Nobody goes to the committee by accident. You might get to certain third-level committees in this place by accident, but your first and second committee choices are usually your choices. I know on your side it will be very hard to get to those committees and most of the time, depending on what side or the other you may have been of the majority or minority leaders, you will get those. On our side, the first come, first get here, first choice in the selection in the system.

You naturally gravitate in the first instance to the committee whose jurisdiction represents either your personal strong interest or your constituency. I had the opportunity to go to the Finance Committee because I have a strong interest, both constituent and personal, in issues like health policy as reflected in the Social Security Act, Medicare and Medicaid, and a broad range of tax policies cause me to want to go to the Finance Committee or something else. After that, of course, comes the opportunity to interface with a variety of legislation. I would imagine that there are a lot of people who have interests before that committee whose interest in policy may also be reflected in their contributions. You cannot deny there is a relativity there. But it is also personal to you on your committee and it is personal in my interests and in the interests of my constituents as well.

Mr. KERRY. If the Senator will yield further for a question, I wonder if the Senator is not really answering my question exactly in the affirmative as I posed it. The Senator is saying there is a direct relationship between the committee, and maybe you get there because it is your interest and maybe you get there because you are adequately reflecting that that is the interest of your constituents. But I think the Senator is acknowledging that that is where the particular money of that interest gravitates. That is precisely the point we are making, that there is a direct relationship between the money on the committee and the Senator on a committee.

If the Senator is on the Finance Committee, it is rare that the maritime industry is knocking on the door, unless there is a maritime industry tax issue in front of it. I think the Senator is underscoring the linkage between money and donations, which is precisely what this legislation is trying to get at. Would the Senator not agree that that linkage is there?

Mr. DURENBERGER. I do not agree that it is there at all. What do you think this place is about? If, in fact, you want to insulate the constituency from participating in this process, then as I said in my remarks this morning, let us let 100 people get here by way of the House of Lords routine, which would knight us into this job or give it to us by inheritance and we can all choose to do the things we want to do, rather than what the people of this country think need to be done.

I would certainly expect that the Finance Committee, with what BOB DOLE has characterized as the Gucci lobby outside the room in the Dirksen Building, attracts a rather strong interest, from strong special interests all over the country.

But by the same token, the fact that the most any of these people can contribute to my campaign or BOB DOLE's campaign is $1,000 per person or $5,000 per election hardly dictates the decision that you are going to make in changing the Tax Code in favor of an entire industry one way or the other. You also learn, at least I have learned from experience on that committee, as some of my other colleagues have, that for every friend you make you make 10 ingrates because you did not solve their particular problem at that time and those people are off either sitting on their money as may often be the case, or sitting on their interest in your election. There is no way to deny the fact that there ought to be a relativily between what we do here and the willingness of people to make contributions.

Earlier today I commented on the experience of running against a self-financed campaign. Very few people in this room have had this experience. Somebody says, "I am going to get your seat no matter what it costs," and you know he does not have to spend time in fundraising.

But what he does, while you are in there talking to your special interests, whether they may be maritime or fisheries or Route 128 high-technology companies, or whatever your interests may be, and you are at Raytheon or someplace like that talking to their employees, this fellow who runs against you, is driving by on the highway out there signaling to you, caring less what they may think. Even though they are a strong constituent interest, he is not dependent on them in any particular direct sense. I cannot deny that relationship at all. I think it is healthy for the Republic, and the fact that perhaps as a result of Watergate we have put limitations on the dollar amount of that interest in effect taking away the concern that the Senator may express his question for the undue influence of one of these interests over the other.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

Mr. President, I thank my distinguished colleague from Colorado, Senator ARMSTRONG, for deferring his remarks to enable me to make a few additional comments beyond the ones which I had made earlier this morning.

Mr. President, about 8 o'clock this morning when my turn came to speak on the pending bill, I made some comments about the propriety of the procedures used last night in the issuance of the arrest warrants.

Since this morning I have had an opportunity to study the matter in some additional detail, although not with finality, and inquired into some of the

underlying facts, although again not in any conclusive fashion.

Mr. President, I pointed out this morning that there is no authority directly for the issuance of a warrant of arrest to compel the attendance of a Senator; that the Constitution has a provision about compelling attendance. It refers to such rules as the Senate may make. But there is no rule which authorizes a warrant of arrest.

There is some precedent, which I cited this morning, at page 1174 of the Book on Senate Procedures, which refers to an incident, according to the text here, of the last order adopted by the Senate to arrest the absent Senators occurring on November 14, 1942. This book was published in 1981.

There may have been other arrests. I heard about one in 1960, but I am not sure. In any event, the reference here is to the last arrest in 1942, and it refers to the proceedings authorized by the Vice President of the United States, and the last part of this Senate procedure quotes:

> The report having been made as to the absent Senators who were out of town and those who were in Washington, the majority leader, Mr. Barkley, made another motion which was agreed to authorizing and directing the Vice Presidsent to issue warrants of arrest for the absent Senators in Washington.

The authority of the Vice President is therefore spelled out on that instance.

That may or may not be compelling authority but it is limited on its face to what the Vice President had done. Rule 1, paragraph 3, provides that:

> The President pro tempore shall have the right to name, in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair including the signing of duly enrolled bills and joint resolutions.

Now, here again it is not conclusive about the authority of the President pro tempore to act on a warrant of arrest, but to the extent that the authority exists beyond the Vice President—and there is a question as to whether even the Vice President has the authority—to the extent that it exists, it goes to the President pro tempore, and the rule is specific in terms of setting forth authority for others.

When Senator PACKWOOD was taken into custody early this morning, in what was an extraordinary event in the history of the Senate. Senator PACKWOOD was accosted in his chambers when the Sergeant at Arms and representatives of the Sergeant at Arms entered Senator PACKWOOD's chamber by use of a key, forcefully took him into custody and brought him with physical force to the Senate floor. Senator PACKWOOD directly told me this early this morning. Senator PACKWOOD thought that he had rights of privacy there. He had the deadbolt on. The key was inserted. The key was turned. The Sergeant at Arms and or representatives entered forcefully. Senator PACKWOOD reinjured his broken finger and shortly after midnight, earlier this morning said to me and others that he expected to get hospitalization for that injury. The fundamental question arises as to what authority there was for this extraordinary use of force and invasion of the chambers of a sitting U.S. Senator.

I have before me a photostated copy of the document signed by Senator BROCK ADAMS which recites that the undersigned Presiding Officer of the Senate "by virtue of the power vested in me hereby command you, in pursuance of the order of the Senate, this day made, to forthwith arrest and take into custody and bring to the bar of the Senate BOB PACKWOOD who is absent without leave, to wit:" And there is a blank for insertion of information.

As I said today, Mr. President, there are quite a number of reasons why this document is invalid on its face. It refers on the front side to a warrant. It refers on the reverse side to a subpoena, and a subpoena is very different from a warrant. A subpoena commands a person to appear at a time and place certain, whereas a warrant authorizes the holder to take physical custody of the person on whom the warrant is served. There is no insertions made on the "to wit" clause. These are all important considerations.

But the most fundamental one, Mr. President, is the appearance that Senator ADAMS, the Presiding Officer, had no power vested in him to sign this document.

I had an opportunity to talk briefly with Senator ADAMS this morning, and he said to me that he knew of no writing which authorized him to perform the duties of the President pro tempore. He said that there had been prior occasions when he had been authorized in writing earlier in the session, but he knew of nothing which contained an authorization for him to do so yesterday. And it appears—this is subject to further confirmation and I do not state this with assurance because we have yet to check out all the facts, but on the statement of Senator ADAMS there is a strong presumption that there was not the kind of authority required by rule 1, paragraph 3. So that when Senator PACKWOOD was taken into custody, it was done in flat derogation of the rule, and that Senator ADAMS as the Presiding Officer did not have the authority to issue this warrant of arrest.

Mr. President, the issue here is more than mere technicality, because a fundamental rule on the issue of warrants has always been the intervention of the detached, objective magistrate, who takes a look at the facts presented to him by the applicant from a warrant and then makes that kind of detached, impartial determination. You have here the activities of the majority leader yesterday. The assistant Republican leader on the floor this morning shortly after 3 a.m. spoke of tyranny. I am not sure whether it was the tyranny of the majority or the tyranny of the majority leader. But you have this application, the majority leader's request for warrants of arrest. You have the matter presented to the Presiding Officer, who realistically sits there on a rotation established by the majority leader, and you do not have the detached magistrate, detached official, the Vice President or the President pro tempore of the Senate. Those offices have a separate and distinct function from that of the majority leader, and where the Vice President has authorized the warrant of arrest on the one precedent cited in 1942, there is a high-ranking public official of the United States of America who brings a different perspective from someone who is an advocate on the floor of the U.S. Senate and where you have the President pro tempore, in this case the distinguished Senator from Mississippi, who has been in this body for more than 40 years, you have an independent authority with a different perspective than the majority leader. They may agree but not necessarily. Magistrates may agree with police officers on issuing arrest warrants but not necessarily, so this is more than a matter of hypertechnicality. It is a matter which goes to the essence of the detached view.

Mr. President, I spoke at some length this morning, and I shall not repeat the arguments which I made, on what seems to this Senator to be the extraordinary and unseemly conduct which occurred last night on the issuance of warrants of arrest presumably for 45 Republican Senators. I do not know, I had not seen one which names me, but I presume that all those who were absent were treated equally, if unfairly. Senator PACKWOOD, if he ever has occasion to apply for another job—I do not suppose he will, his position is so assured here, but if he ever should and faced the question, "Were you ever arrested?", he might face some rather embarrassing moments; it is never easy to explain, even if you are a U.S. Senator, why you were subject to an arrest warrant.

I spoke this morning about the constitutional rights which have been enforced in this country and hundreds of thousands of guilty felons freed since the famous Weeks case, United States versus Weeks in 1916 where defendants are conclusively guilty as a result of evidence obtained, not obtained legally, and the guilty were set free, and as later applied in the case of Mapp versus Ohio, in 1961, hundreds, thou-

sands, probably tens of thousands of men and women who were conclusively guilty on the basis of evidence presented were set free because of the failure to observe constitutional rights. I recited some cases that I knew about personally as district attorney of Philadelphia—in one case a man accused of murdering a taxi driver, where there was a confession and tangible evidence from the defendant's apartment, was set free, exonerated because his constitutional rights were not observed.

When I spoke this morning shortly after 8 o'clock I had not had occasion to read the mroning press, but a lead story in the Washington Post today relates to the confession excluded in a hijack case. Overwhelming international importance on the hijacking led to a warrant of arrest being issued by the U.S. Government under extraterritorial jurisdiction, and in a Federal court yesterday Fawaz Yunis had a confession thrown out of court because his constitutional rights were not observed.

The judge in that case said that it was not sufficient that there was a national security interest, it was not sufficient that there was the interest of a fight against terrorism, that the constitutional rights had to be observed. What egregious conduct was Senator PACKWOOD more guilty of than Fawaz Yunis? Senator PACKWOOD was exercising his right as a Senator, perhaps even his right as a citizen, by being in his chambers, which were unceremoniously broken into in the way that I have already described.

Mr. President, I believe that these matters are matters of enormous importance that I hope the Senate will address and that I hope the majority leader will address yet today. We are proceeding here on S. 2, which is legislation that has enormous areas of disagreement on the question of soft money, the question of the propriety and wisdom of public financing. There exists agreement by many Senators on this side of the aisle to eliminate totally PAC contributions, since there may be a public perception on PAC contributions, but that bill is fraught with controversy. Beyond the issue of controversy itself, there is the very important fundamental rule, unchallenged in this body, that when 41 U.S. Senators decide that a matter will not come to the floor for debate, that is that. It used to require 67 Senators to impose cloture, but this body decided over the years, for good and sufficient, reason, that if 41 Senators say "No vote" on the substance, then have no vote shall occur on the substance. This is a protection of minority rights. We know that for seven cloture votes, said to be a record in the U.S. Senate, not 41 but 45 United States Senators have said S. 2 cannot come to the floor because there are some matters so fundamental that the U.S. Senate has decided in its institutional wisdom, which is considerable, certainly more than the wisdom of those of us who are here today, and certainly much more than those of us who were here last night, that a majority of 51 Senators, or a majority of 55 Senators, cannot carry the day if at least 41 Senators say debate will not stop, cloture will not be imposed. In the face of that, Mr. President, we had an extraordinary, really historical event last night. It was plain that those who had been appointed, four Senators by the Republican leader, four Senators by the Democratic leader, could not come to an agreement.

I had a talk on the floor of the Senate yesterday afternoon with Senator BOREN and personally heard it from him. So then what was the purpose in scheduling an evening session? What was the purpose of scheduling an all-night session? Mr. President, I raise these in the form of questions because there is passion on the Senate floor today. There was passion in the service of the warrant of arrest last night and it may be that tempers ought to cool before we answer these questions, but there are very important questions for the future operation of the United States Senate and the future operations of the U.S. Government.

Was it harassment to bring in 90-some Senators—I will not say 90-odd Senators, but 90-some Senators to respond on a question which was irrelevant, which was nonbusiness?

Was there any doubt at all that 45 Senators stood firm, at least more than 41 Senators, and that cloture was not going to be imposed? Was it a form of harassment? Did it have any purpose?

Republican Senators decided last night that we would absent ourselves from the Chamber because then there would not be a quorum, and Senate business could not be conducted because, in fact, there was no Senate business to be conducted. What we were engaged in was non-buisiness. There are other characterizations in front of "business" which would be less complimentary that I might use. But there was no business to be conducted, because it was plain that there was no compromise in the offing.

It was plain that 41-plus Senators had decided that the matter would not come to a vote. Never mind the underlying merits, which I think were substantial, on soft money and financing and the rest of it. That had been decided. So Republican Senators decided to absent themselves from the Chamber because of a proceeding they considered to be demeaning personally and demeaning to the U.S. Senate.

Then what was the response? The response was the issuance of warrants of arrest which have all the appearances and presumptions of being illegal, unlawful, null and void, and really constituting a false arrest of a U.S. Senator, taken from his chambers and sustaining some physical injury to a broken finger, and being removed bodily to the floor of the U.S. Senate.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. SPECTER. I will, in just a minute.

Mr. President, I now come to the most important issue—and I will be glad to yield to my distinguished colleague from Arkansas—involved here, and that is the issue of comity and courtesy, without which the Senate cannot function.

The two most frequently used words in this body are "unanimous consent." Without unanimous consent, the United States Senate cannot function. Any 1 Senator, let alone 45, can tie up this body interminably. The Senator adjourns when the last Senator is tired of speaking.

Last night, the majority leader, after he had undertaken the action he chose, asked for unanimous consent to vitiate the yeas and nays on the pending business on the Executive Calendar.

I am sure that many, like I, were tempted to object. Why? Not for any purpose. It was past 3 a.m. Everybody here was human, I think. Certainly, I was tired.

Then he asked unanimous consent for a number of other items. The temptation to object is strong, and they will reach the point where Senators may object, just to say to the majority leader: "You started it; you finish it. We are here."

It is pretty hard to go to bed at 3:30 a.m., especially if you have to get up shortly after that to make a speech at 8 o'clock.

What is the point? If we are in the midst of it, why continue? Everybody was here all night last night until this morning. Perhaps we will not repeat it tonight, not as a matter of a Senate rule but as a matter of human endurance. We are bordering on the edge of that kind of response in every quarter and in every corner of this body.

Mr. President, it seems to me that, in a sense, the Senate is falling apart. In a sense, the Senate is disintegrating or has disintegrated, because without comity and courtesy the United States Senate simply cannot function, and that is our status today. I believe there are issues which are much more important than S. 2. I believe that campaign finance reform is of utmost importance as a substantive matter for the American people, but the operation and function of the United States Senate is even more important. The United States Government cannot function unless the Senate functions, and the United States Senate cannot

function without comity and courtesy; and the United States Senate cannot function if United States Senators are to be arrested in the middle of the night for no reason whatsoever.

I am glad to yield for a question.

Mr. BUMPERS. Mr. President, let me ask the distinguished Senator from Pennsylvania this question, with this prefacing remark.

One of the most distinguished constitutional scholars we ever had in this body was the distinguished Senator from North Carolina, Senator Ervin. Everybody remembers that Senator Sam was chairman of the Watergate Committee, and he was placed in that position by then majority leader Mansfield because of his knowledge and his reputation as a constitutional scholar.

Senator Ervin used to say that English is the mother tongue, and it means what it says.

So, my question to the distinguished Senator from Pennsylvania is this.

Section 5 of Article I of the Constitution reads as follows:

Each House shall be the judge of the elections returns and qualifications of its own Members, and a majority of each shall constitute a quorum to do business. But a smaller number may adjourn from day to day, and a smaller number * * *

Those are my words. This is not repeated in the Constitution.

* * * a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent Senators in such manner and under such penalties as each House may provide.

The Senate has provided in its rules as follows, on page 577 of Senate procedure:

Motions to proceed to the consideration of an appropriation bill prior to the expiration of two hours in a new legislative day are determined without debate but motions to consider made after that time are debatable.

Mr. SPECTER. The Senator is reading from Senate Procedure?

Mr. BUMPERS. The bottom of page 577 and the top of page 578.

Then, pursuant to that rule, the Senate, under the rules, established a warrant to be signed by the Vice President or the Presiding Officer—a warrant to compel the attendance of absent Senators. Here is what it says. This is directed by the Presiding Officer or the Vice President to the Sergeant at Arms.

"The undersigned Presiding Officer of the Senate.

"By virtue of the power vested in me, I hereby command you, in pursuance of the order of the Senate this day made, to forthwith arrest and take into custody and bring to the bar of the Senate"—blank name of Senator—"who is absent without leave."

Let me just say that if the Senate last night had said, "Go out and arrest absent Senators and cut off their little finger," I think you have a constitutional problem. But when you have every Republican Senator hiding in order to impede the work of the Senate—they may not agree with it, may not like the majority leader, may not like S. 2, may not like staying in all night and may feel that it is all foolish and a waste of time. But that is not the decision of individual Senators to make. They are here pursuant to the Constitution and the Rules of the Senate, and the Supreme Court has ruled over and over again on that point.

If the Senator has read the Adam Clayton Powell case in the House of Representatives, he will find that the Supreme Court has said this is not a constitutional issue, this is not a legal question, this is not a political problem. The House has the right to determine its own rules; and if they want to place the Sergeant at Arms at the door and deny Adam Clayton Powell admission to the House of Representatives, they have that right.

Mr. SPECTER. I think I have the question.

Mr. BUMPERS. Fire away. I started to ask a question, and I was going to ask the Senator how he can make the arguments he just made in the light of the sequence of events.

Mr. SPECTER. I have the question and the speech.

The Supreme Court decision on Adam Clayton Powell involved the seating of Congressman Powell. It did not involve the arrest of Congressman Powell. If the distinguished Senator from Arkansas thinks we have to cut off a little finger to invoke a constitutional right, then I would suggest that he consult beyond Senator Ervin, to hundreds of court decisions on enforcing constitutional rights which involve being brought before a magistrate.

I referred a few moments ago to the case of the terrorist Fawaz Yunis, who was kept in custody for 9 hours, and that was the basis for the Federal court throwing out his conviction. They did not have to engage in torture, they did not have to cut off his left little finger to invoke constitutional rights.

If a suspect in a case is not given detailed Miranda warnings and then exercises detailed waivers, he has a standing in court. You do not have to cut off somebody's left little finger.

Frankly, I am glad the Senator mentioned the little left finger, because that was precisely what was involved with Senator PACKWOOD.

Mr. BUMPERS. I understand that he got an injured finger.

Mr. SPECTER. I wonder if that was intended.

Mr. BUMPERS. The Senator——

Mr. SPECTER. I am in the process of making an answer. Senator PACKWOOD had a broken little left finger. We have all seen the cast he has worn in this Chamber for the last 2 weeks.

During the course of the physical, forcible entry by the Sergeant at Arms last night, Senator PACKWOOD's little left finger was reinjured.

He said to me and a number of other Senators—and not in hiding, by the way, but in the Republican cloakroom, where we have a right to be—that he had to go to the hospital this morning to get his finger repaired.

So, if you have your little left finger involved, then, even by the standards of Senator BUMPERS, I think Senator PACKWOOD qualifies.

Now, as to the business of being in hiding, let me say flat out that I resent that. I was one of the Senators, and I was not in hiding. I was attending to the Senate's business, and I was exercising my rights as a citizen, perhaps even as a Senator.

I was on the floor of the United States Senate most of the evening. I was in the cloakroom of the United States Senate.

I then decided to go home, and I went to my office and I got my coat, and I went to the bottom of the Hart Building garage, and I drove the most direct way to my house. I had to deviate a little to drop off Senator HEINZ.

Then I was at home and available for a telephone call, or available for a request, or available to talk—candidly, not available for an arrest warrant, especially an illegal arrest warrant.

So I was not in hiding. I do not hide.

The last place to hide is in the United States Senate. We are subject to surveillance at all times. If our spouses want to know where we are, all they have to do is turn on cable television and they can see us—see me or us—at all times of the day and night, and check the CONGRESSIONAL RECORD. We are congenitally not in hiding, by virtue of our positions.

I repeat: I resent that.

Now, to the point, because all of what I have said so far is not to the point.

The point of the question was in response to a speech by the distinguished Senator from Arkansas, and I respect his right to make that. He is an avowed friend of mine. I do not think he has to quote Senator Ervin as a constitutional authority. I think Senator BUMPERS is a constitutional authority. He is a first-rate lawyer, a first-rate Governor, and a first-rate Senator.

To the point now, when Senator BUMPERS rose and said, "What do the rules provide," I am glad Senator BUMPERS brought that up because that is where I started earlier this morning.

I started with the rules. I started with article 1, section 5, the same rule that you started with, and that is, the operative language, "each House" and a smaller number of Senators may adjourn from day to day and may be authorized to compel the attendance of

absent Senators. That says nothing about a warrant of arrest, absolutely nothing. If the framers wanted to talk about warrants, probable cause, et cetera, they knew how to do it because they had done that in other sections of the United States Constitution, and that further provides "under such penalties as each House may provide."

I want to express my apologies to the Senator from Colorado, whose time I have taken here, and I thank him.

Mr. ARMSTRONG. Not in the slightest.

Mr. SPECTER. The United States Senate, which is a reference to each House, has not provided any rules in such manner. When Senator BUMPERS quotes page 577, and I will come to that in a minute, that is not a rule, that is a commentary on the rule. There is a big difference between a rule and a commentary on a rule. That is a discussion about a wide variety of things. Simply stated, it is not a rule. A rule is where you set forth a specific statement of principle or policy.

Immediately preceding page 577, there are a lot of rules stated.

On page 572, they start off, "Rule XIV, paragraph so and so." It is not like page 577 which has a discussion or a commentary about rules, practice, and custom. Simply stated, it is not a rule.

But what does the rule provide?

There is another rule, and I quoted it this morning shortly after 8 o'clock. It is rule VI, paragraph 4, and it says:

> Whenever upon such rollcall it shall be ascertained that a quroum is not present, a majority of the Senators may direct the Sergeant at Arms to request, and when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn,

et cetera.

There simply is nothing in the rules about a warrant. Where you come to the commentary, and there is a reference to the issuance of warrants of arrest, that turns on the precedent on page 1174 of the Senate Procedure that I have already refered to, and that is on the authority where the Vice President issued a warrant of arrest in 1942, which was a matter of practice as opposed to any rule.

The distinguished Senator from Arkansas then cited the document in question, but that document, and the citation which the Senator makes, really undercuts the force of this authority.

That document recites that:

> The undersigned Presiding Officer of the Senate, by virtue of power vested in me, hereby commands you to take Bob Packwood into custody.

And it is signed by BROCK ADAMS.

I would return the question to the distinguished Senator from Arkansas. You heard the recitation of the rule that only the President pro tempore may designate someone in writing, or the Senate. You heard my statement where I recounted the conversation that I had with Senator ADAMS, who is the party signatory here, that he knew of no such writing. I think there is a grave question as to whether even the Vice President can sign a warrant of arrest. I think there is an even graver question as to whether a President pro tempore can sign a warrant of arrest.

I think most gravely there is a question about whether the designee of the President pro tempore can sign a warrant of arrest. There is no question, however, that any Senator, naked of power and authority, has no right to sign a warrant of arrest to bring into custody a fellow Senator from this body, any more than I can sign a warrant of arrest for Sentor BUMPERS, Senator BYRD, or any other Senator in this body.

That is what the rule says, and, on the basis of this record, there is no authority for Senator ADAMS to sign this document.

As reluctant as I am to allow the distinguished Senator from Arkansas to speak, because he is so eloquent and forceful, I will put that question to Senator BUMPERS. What authority did Senator ADAMS have?

Mr. BUMPERS. Mr. President, I am not familiar with the precise rule, except the rule that says the Vice President is the constitutionally designated Presiding Officer of the U.S. Senate. And in his absence, the President pro tempore and, if I am not mistaken, it says, "or his designee."

Mr. SPECTER. If I may interrupt, let me give the Senator the rule specifically.

Mr. BUMPERS. All right.

Mr. SPECTER. I will use the Senator's book, Senate Procedure.

Mr. BUMPERS. Where is that rule?

Mr. SPECTER. Rule I, paragraph 3, genuine bona fide rule, page 657, says the President pro tempore——

Mr. BUMPERS. Is the Senator reading from procedures?

Mr. SPECTER. No. I am not reading from procedure and calling it a rule. I am reading from a rule and calling it a rule.

Mr. BUMPERS. Which page?

Mr. SPECTER. Page 657. Rule I, paragraph 3.

> The President Pro Tempore shall have the right to name in open Senate, or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly-enrolled bills and joint resolutions.

The including does not delimit from the generalized authority, theretofore stated, to perform the duties of the Chair. On the basis of the evidence that I have, as I have outlined it today, there was no designation by the President pro tempore, Senator ADAMS. The President pro tempore had designated Senator PROXMIRE, and Senator PROXMIRE, according to the information provided to me, had not designated Senator ADAMS. I recount, again, a conversation I had with Senator ADAMS who said to me he knew of no such designation. To elaborate, he said he knew of a designation earlier in the session, but none yesterday.

My question is, when you are dealing with the authority to issue warrants of arrest and dealing with an intervening magistrate, different from the majority leader, what authority does Senator ADAMS have to authorize a body warrant, an arrest of Senator PACKWOOD?

Mr. BUMPERS. Well, Senator, let me answer that question in two or three ways. Number one, the Senator has been here now for 12 years. How long has the Senator been in the U.S. Senate, 8 years, 7 years?

Mr. SPECTER. Yes.

Mr. BUMPERS. And during that 7-year period, has the Senator ever challenged the right of any presiding officer to sit in that Chair?

Mr. SPECTER. No, but that is irrelevant.

Mr. BUMPERS. Well, it is not necessarily irrelevant. The Senator surely understands that we also operate by precedent here and oftentimes——

Mr. SPECTER. Are you talking about custom?

Mr. BUMPERS. Custom.

Mr. SPECTER. That is different than precedent. There is no precedent.

Mr. BUMPERS. If I may just answer the question and proceed. Quite often, when a parliamentary question is raised here, the Parliamentarian and the Presiding Officer confer on it, and that Presiding Officer makes the final decision as to who is right or wrong by parliamentary inquiry.

Now, the Senator, I do not believe, is seriously suggesting that every order that has been issued and, I would say, that probably somewhere between 90 and 98 percent of the hours that have been presided over the Senate since I have been in the Senate have been by people who were not the first designee by the President pro tempore, if the Senator really believes this, if he believes that is the custom and the precedent of the Senate for literally 100 years, if he wants to suddenly challenge that, last night when Senator ADAMS was presiding and issued the warrants for arrest, it would have been a golden oportunity for the Senator to challenge and make the point he is making right now.

Mr. SPECTER. I am doing it, and very promptly, very timely.

Mr. BUMPERS. The distinguished Senator from Alabama, Senator SHELBY, is now the Presiding Officer. He was not the officer designated by the President pro tempore. So why does not the Senator right now chal-

lenge his right to sit there and preside over the U.S. Senate?

Mr. SPECTER. Because it is irrelevant and because this debate is too important and because we are making too much headway, in my judgment, on exposing the fallacy, the illegality, and the impropriety of what was done last night. Let me respond really to the substance of what you are saying.

It is not germane, not relevant, not important that Senator SHELBY, or others, may sit in that Chair and may parrot the words of the Parliamentarian on rulings of the Chair. Most of us who sit there are conduits for language which is fed to us by somebody else, and none of it is earth shattering. None of it amounts to going into a Senator's chamber and bodily removing him and bringing him with physical force to the floor of the United States Senate.

What authority does it—and I ask this rhetorically and not for an answer because I am not finished with my answer yet—but what authority is there by way of custom for a nonappropriately designated Presiding Officer to issue a warrant of arrest? That is the question. Not whether he has sufficient capacity to parrot the words of the Parliamentarian and speak them into the microphone.

On rule I, paragraph 3, there are two illustrations given which require a formal designation by the President pro tempore. They are the signing of duly-enrolled bills, and I know that of all the times I sat and presided over the course of some 6 years, I never signed a bill—and I doubt that Senator SHELBY has—or a joint resolution. I would suggest when you are dealing with something as important as a body warrant where you do not even have a Senate rule, where you have the authority by precedent in the Vice President, not even in the President pro tempore, that compliance is necessary.

There are now thousands of cases where murderers, major felons, have been set free with much less compliance with the rules, a flat-out written rule, which says how you get the authority to do something from the President pro tempore.

Mr. BUMPERS. If the Senator would go back to rule I, which you recited a while ago, let us go through that again.

Mr. SPECTER. OK.

Mr. BUMPERS. You read the first two sections of that rule, but I do not believe you read the third section. So let us read it all together so everybody watching—

Mr. SPECTER. Now, which rule are you on?

Mr. BUMPERS. On rule I, Standing Rules of the United States Senate.

Mr. SPECTER. Fine. Proceed.

Mr. BUMPERS. Here it is for the record:

> In the absence of the Vice President, the Senate shall choose a President pro tempore, who shall hold the office and execute the duties thereof during the pleasure of the Senate and until another is elected or his term of office as a Senator expires.

Mr. SPECTER. What page are you on, Senator BUMPERS?

Mr. BUMPERS. Well, I have that small Standing Rules of the Senate. It is a small document. It is not the big one. If you have the Senate rules there, just turn to Senate rule I.

Mr. SPECTER. Do you have the citation of the book you used before of Senate procedures?

Mr. BUMPERS. Standing Rules of the Senate and Congressional Budget and Impoundment Control Act of 1974 as Amended.

Mr. SPECTER. Bear with me while I use the index and appendix to find the rules.

Mr. BUMPERS. Does the Senator have the Senate rules?

Mr. SPECTER. I have the Senate procedure. I have not had an assistant handing me documents on the floor, Senator BUMPERS.

Mr. BUMPERS. I do not know what to do about this, except to just read to the Senator and hope he will pay careful attention. This is the rule.

Mr. SPECTER. I will try.

Mr. BUMPERS. This is the rule, and I think the Senator will trust me to read it to him exactly as it is printed, section 2:

> In the absence of the Vice President, and pending the election of a President Pro Tempore, the acting President Pro Tempore or the Secretary of the Senate, or in his absence the assistant Secretary, shall perform the duties of the Chair.

Here is paragraph 3:

> The President Pro Tempore shall have the right to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions, but such substitution shall not extend beyond an adjournment, except by unanimous consent;

Here is the key phrase:

> And the Senator so named—

That is, the Senator who has been named by the President pro tempore,

> —shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent.

So every hour on the hour the Senate has, now for at least 7 years, watched various Senators replace the Presiding Officer. For example, Senator SHELBY, who is now presiding, will probably be replaced at 12 noon and the Journal will reflect that his designee is the person who follows him pursuant to section 3 of rule I.

That has been the rule of the Senate, I suppose, for 100 or more years.

Does that answer the Senator's question?

Mr. SPECTER. Absolutely not. Let us start with the beginning.

You started with subsection 2 as if there were some importance to subsection 2 of rule I.

Mr. BUMPERS. No, there is not really much importance to this debate in section 1 or section 2, either one.

Mr. SPECTER. That is what I was about to say. I had read paragraph 3 and I just want those who may be following this on television to understand that when this Senator cited the relevant rule and subsection, it was rule I, paragraph 3. Then when Senator BUMPERS got the rule book out and started to go to another rule, subsection 2, I thought there was going to be some relevancy, but there is absolutely not.

Mr. BUMPERS. I am sorry. I had read rule I before you got the copy you hold in your hand. The reason I did not reread it was because it was not relevant to the debate we are having here.

Mr. SPECTER. That is the point I want to make. The governing rule was the one I read initially, rule I, paragraph 3. That is cited on page 67. When we go to the other rules in the other document which has them all together, it has nothing to do with what we are talking about.

Mr. BUMPERS. Let us review the bidding so we are all on the same wavelength.

Mr. SPECTER. Let me go to the specifics of paragraph 3, which is the one with relevancy and the one I put before the body and the television audience, to the extent there is any, at the present time.

When you talked about Senator SHELBY taking the Chair—well, let me put a question to the Presiding Officer.

Senator SHELBY, did your predecessor say, "I hereby designate you" anything when you took the Chair?

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. BUMPERS. Will the Senator yield?

Mr. SPECTER. I do not.

The PRESIDING OFFICER. It is not customary during the session to make the designation. The designation is generally done specifically at the beginning of the day when the Senate is opened.

Mr. SPECTER. Let me thank the distinguished Presiding Officer. Let me note for the record for those who did not see the Parliamentarian whisper into the ear of the Presiding Officer the answer which the Presiding Officer just gave, that was an interesting answer, but to a different question.

My question was, did the Presiding Officer say anything to you by way of

designation? I shall not repeat the question, but I will withdraw the inference that he did not.

The PRESIDING OFFICER. The answer is an emphatic no, he did not.

Mr. SPECTER. Nobody has ever designated me anything.

Mr. BUMPERS. My presiding is the same as if the Senator from Pennsylvania were presiding.

Mr. SPECTER. I asked that question and I know I do so dangerously because I did not know the answer. I violated all the rules of cross examination. It puts to rest the question Senator BUMPERS last raised, which is not relevant in any event but assuming arguendo that it was. The latter part of section 3 says:

> The Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair.

Nobody named you in open session to do anything.

Mr. BUMPERS. But when the Republicans were the majority they did the same thing.

Mr. SPECTER. Wait a minute. I have the floor. Let me finish.

If that governed, which it really does not, it would not establish any authority on your part, Senator SHELBY, and it is a totally insufficient, gratuitous answer which the Parliamentarian offered you, that it is not customary to have it done. Custom has some importance but not in flat contradiction to a written rule. You cannot substitute custom for a written rule. In the absence of a written rule or some established law, custom may have relevance to established procedure or substance.

But where you have a flat written rule, it does not mean a thing.

So nobody named you to do anything. But the reality here is that the Senator who was designated in writing, according to the informtion provided to me, was Senator PROXMIRE, who was designated in writing from Senator STENNIS, and nobody else. Where you are dealing with something as fundamental as the issuance of a warrant of arrest, and you are looking for an attached magistrate, you may not be looking for one of the newest Members of the United States Senate. They customarily do not have committee chairmen presiding, and I say that in no disrespect to Senator SHELBY or Senator BUMPERS, and I did a lot of presiding in my first year of the Senate, or Senator ADAMS, who is now in the second year in the Senate, and it does not have quite the detachment that the Vice President does.

Do you disagree with the majority leader, Senator SHELBY? Perhaps you would, but many second-year Senators would not have been disposed to state it. The President pro tempore, in this case the designation of Senator PROXMIRE, who may be next in line to Senator STENNIS and in terms of succession probably is, might have more the mind of a detached magistrate in taking the view of what the majority leader as an advocate, a partisan, in these proceedings had done, asking should we have a warrant for arrest for Senator PACKWOOD? It is late. It is past midnight. Senator PACKWOOD may have a broken finger. Who knows? He was taken bodily to the Senate Chamber. I have talked to other Senators today who expressed amazement with what went on.

I do not think the Democrats had high ground on S. 2 to start with. Whatever ground they had I think has eroded, has disintegrated, has been the victim of a landslide, of impropriety and illegality in the issuance of this warrant of arrest, not to say what is really important about the comity of courtesy that this place runs on.

My replacement, Senator WALLOP, has arrived.

Does the Senator from Arkansas have a question?

Mr. KERRY. Will the distinguished Senator yield?

Mr. SPECTER. I asked if the Senator from Arkansas had a question.

Mr. BUMPERS. I will make one brief statement and one inquiry of the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor. Does the Senator yield?

Mr. SPECTER. By unanimous consent, without losing my right to the floor, I would like to yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the Senator may be, from a purely legal standpoint, correct. But I also want to note that for perhaps 100 years there is a precedent in the United States Senate. It was a precedent when the Republicans were in control. The Senator is making an argument which could conceivably invalidate every single action the Senate has ever taken, and I think the rule may be as old as the Senate, because the person who was the second and those in sequence who presided did not get up and say, "I now designate Senator SHELBY to replace Senator PROXMIRE," who will exit, and Senator SHELBY takes the Chair. That is the argument of the Senator from Pennsylvania.

But every time there has been a question raised like this, the Parliamentarian has always ruled according to precedent. In this particular case, when you had somewhere between 100 and 200 years of precedent, I do not believe the Senator would prevail with his argument.

Having said that, let me go back to one other thing.

Incidentally, as I say, the Constitution is clearly written. Sam Ervin said the mother tongue was English and I have never seen English more clearly written than the section on the rules of the Senate providing for the attendance of Senators. It does not say they should not come; it does not say you cannot touch them if they have a bolt on their hideaway; it does not say anything about what you will do to compel their attendance. The Senate is the judge of that. It says they will compel their attendance. Alvin Barkley, in 1942, signed warrants of arrest and sent the Sergeant at Arms out to compel people and request their attendance. I think the language is absolutely clear.

Incidentally, the Sergeant at Arms tells me Senators were running from him last night. What a spectacle. United States Senators seeing the Sergeant at Arms coming taking off in a sprint to keep from being compelled to come here and do what the people of their States expected them to do.

Mr. SPECTER. When did that happen?

Mr. BUMPERS. This morning.

Mr. SPECTER. Before PACKWOOD?

Mr. BUMPERS. Before PACKWOOD. It was in a dead sprint. They should have been in Calgary at one of the Olympic events.

But the spectacle of United States Senators running from the Sergeant at Arms in order to keep from being compelled to attend the United States Senate is an outrage.

Let me just ask this question.

Let me lower my voice a couple of decibels. I thank the Senator for his nice remarks about me. I will reciprocate by saying there is not anyone in the Senate for whom I have a greater affection or whom I respect more on constitutional issues. The Senator knows that. We are close friends.

Let me ask: If you cannot compel the attendance of Senators who choose to absent themselves without leave as happened this morning at 2 o'clock, or whatever hour it was, and any time Senators know that they can absent themselves and bring the Senate to a halt so that the Senate cannot function and you cannot do anything about it, where does that leave the U.S. Senate?

Mr. SPECTER. I think it leaves the U.S. Senate in a much better position than the United States Senate is in today.

Mr. BUMPERS. Well, why——

Mr. SPECTER. May I answer?

Mr. BUMPERS. yes.

Mr. SPECTER. I believe that Senators ought not to be subject to arrest, except under extraordinary cause, any time, perhaps never, unless they have committed a crime, if there is probable cause to believe they have committed a crime.

I say to arrest a U.S. Senator at 1 a.m. in the middle of the night is unconscionable.

I would say there would have to be some extraordinary emergency for the majority leader of the U.S. Senate to take action to arrest U.S. Senators in the middle of the night on the allegation of performing Senate business. If you take back the curtain, there was no business to be performed for reasons I specified earlier.

There was not going to be any result of these motions to compel.

The negotiators had reached an impasse. Forty-five U.S. Senators had absolute rights not to have the matter come to the floor for a debate on the merits.

What was going on last night, in the instance of the majority leader, was harrassment and demeaning. Senator PACKWOOD was within his rights of being within his chambers. There was no situation to justify arresting him in the middle of the night.

There are rules even for criminals on no-knock warrants when they are home in the middle of the night which limit the authority——

The PRESIDING OFFICER (Mr. CONRAD). If the Senator will suspend.

Mr. SPECTER. Right in the middle of my important issue. I suspend.

Mr. BUMPERS. The prayer of the Chaplain is much more important.

The PRESIDING OFFICER. The hour of 12 noon having arrived, and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 24 of 1960, the Senate will suspend until the Chaplain offers a prayer.

PRAYER

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

Let us pray:

The fear of the Lord is the beginning of wisdom.—Psalm 111:10.

The fear of the Lord is the beginning of wisdom: and the knowledge of the holy is understanding.—Proverbs 9:10.

The fear of the Lord prolongeth days.—Proverbs 10:27.

*In the fear of the Lord is strong confidence * * *. The fear of the Lord is a fountain of life.*—Proverbs 14:26-27.

Eternal God, full of wisdom and love, manifest Yourself in this place today. You reminded the prophet Samuel that "man looks on the outward appearance but God looks on the heart." (I Samuel 16:7.) You know all things, infinite and infinitesimal. Rule in our hearts. Mighty God, let Your peace descend, Your love infuse, Your will prevail—in His name Who is incarnate love.—Amen.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill (S. 2).

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania continues to have the floor.

Mr. SPECTER. As I was saying in responding but there has been intervention of the prayer, and I think that the prayer just given gives us some insights to Senator BUMPERS' questions. The fear of the Lord is an appropriate fear. The fear of the majority leader is not. An arrest in the middle of the night has no place in the business of the U.S. Senate under any circumstance that I can conceive. If we were in the middle of a continuing resolution and some vital payments were about to expire, the Senators would be here; nobody would have to be arrested. If there was some emergency and we had to work all night as we have had to do so often, the Senators would be here. But where we have a bill on which there is deepseated disagreement and established beyond any question through seven cloture votes that debate is going to continue, and you have a series of motions to compel the attendance of Senators which are meaningless and nonbusiness, there is absolutely no justification for arresting anyone. If you had business before the Senate to be conducted and you had a motion to compel the attendance of Senators during normal business hours and there were 50 Senators who would not appear to constitute a quorum, then I would say under that circumstance, which is inconceivable, the majority leader would be within his rights in arresting Senators to bring them to the floor during business hours. But, as I was saying before the prayer time came, there are special rules governing no-knock provisions, special rules governing procedures of police in the middle of the night. Why not special rules governing what the leadership of the Senate can do in the middle of the night.

Mr. KERRY. Will the distinguished Senator please yield for a moment?

Mr. SPECTER. I do. For a question?

Mr. KERRY. For a question. For a question. The question is: I have been listening both on the floor and in my office to this debate, and I am troubled—I think all of us are troubled, but I am deeply troubled by the Senator's notion about comity and how this institution works, and my question with the preface of a few remarks is since when does the minority, any minority, by virtue of its judgment that a particular vote is meaningless, stop the process of a majority, from allowing that vote to go forward and the business of the country and of this institution to be carried out?

I would document that question, if I may, by pointing out that at 9:50 p.m. at night, not a late hour by the standards of the U.S. Senate in recent times, there was a vote, vote No. 21, and the vote was 57 to 21. Many of the 57 were Republican votes. Messers. BOSCHWITZ, CHAFEE, COHEN, DANFORTH, DOMENICI, DURENBERGER, GARN, GRASSLEY, HATFIELD, HEINZ, HELMS, HUMPHREY, KARNES, KASSEBAUM, KASTEN, MCCAIN, MCCLURE, MURKOWSKI, NICKLES, PACKWOOD, QUAYLE, ROTH, SIMPSON, SPECTER, STEVENS, SYMMS, THURMOND, WALLOP, WARNER, WEICKER, and WILSON all voted.

Mr. SPECTER. Specter is not in that list.

Mr. KERRY. All voted as part of—excuse me, you are absolutely correct. You were underlined but you are on the other column.

Mr. SPECTER. Thank you.

Mr. KERRY. But all of the others—as I look through here, Mr. QUAYLE was not. Other than that, they were Republicans who were here. The point I am making is they were here. They were on the floor. They voted. Republicans were here at 9:50 p.m. A scant 45 minutes later, 10:45 p.m., not again a late hour by the standards of business in the U.S. Senate, within that span of time suddenly the Republican Party had vanished, vanished.

Now, I was here. I saw Senate Republican faces staring out the door of the cloakroom looking at that vote take place, a conscious decision not to vote. A conscious decision not to vote. I know for a fact that on the Republican hotline word was going out, "Don't come." That was the message. So when Senator BUMPERS says hiding, I think that is accurate. There was a conscious decision; within the span of 45 minutes, the entire Republican Party in the U.S. Senate with the exception of one, the designated leader, vanished into the night, deciding to abdicate responsibility and not participate or choosing perhaps, as the Senator from Pennsylvania rephrased it, to exercise their responsibility differently, to see their responsibility in a different light, a light that somehow said the more responsible minority decision is not to participate. But the majority, which is the way this country is run, made a decision. The majority of the Senators present voted according to the rules of the Senate to say this institution will continue and not have a lot of Senators running off into the corridors and into the night like the headmaster chasing schoolchildren somewhere, trying to get them to come back to the classroom and participate—frankly, a shameful display, a shameful display. This institution has ample ways of working its will—by voting, by doing exactly what the Senator has said, which is coming together, compromising.

Mr. SPECTER. Does the Senator have a question? If not, I am going to——

Mr. KERRY. The question is——

Mr. SPECTER. Mr. President, I ask for regular order and my right to the floor.

Mr. KERRY. The question is——

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. KERRY. The question is——

Mr. SPECTER. I do yield for a question and for a short speech.

Mr. KERRY. The question is how can the Senator assert that the minority has that right and that that is representative of real comity and of the interests of this institution working properly?

Mr. SPECTER. First, I agree with you about a shameful display, but it come from your side of the aisle. Second, you are dead wrong when you say that the majority is the way this country is run. That flies in the face of the Bill of Rights to the U.S. Constitution, which guarantees minority rights. When you say this country runs on majority, you are dead wrong. Minority rights distinguished this country from Nazi Germany and from Communist Russia where you have knocks on the door in the night and you have forceable entry like that which happened to Senator PACKWOOD.

When you say majority is the way this country is run, referring to the Senate, you are again dead wrong. The rules of the U.S. Senate provide that 41 or more U.S. Senators say that a bill will not be brought up for a substantive vote. That is a fundamental rule of this body. And if you say that a majority is the way the Senate is run, you cannot count. Forty-one Senators can stop debate from coming to an end. There were 45 Senators who have said that seven times. How many times does it have to be said for the majority leader and the majority Members of this body to hear it?

You talk about a conscious decision not to be present. You do not have to draw an inference about that. I started with a conscious decision. We met in the Republican cloakroom and we talked it over. What is the difference between 9:50 and 10:45? Fifty-Five minutes. We had had enough. Perhaps we should have done it earlier. But why wait until 2 a.m. to assert some rationality in the U.S. Senate? The real question you asked, Senator KERRY, and I think it is a good question, is when you say you are troubled by comity, and I think you should be troubled by comity, because when you strip down everything that has been said, I do not place great reliance on the subtleties of the substance of S. 2 and I do not place great reliance upon an interstitial reading of rules of the Senate that you had authority to do what—I think is not a small matter. Senator PACKWOOD's fingers will heal, but I do not know if the U.S. Senate will heal. The scar tissue is going very deep at this time in the life of the Senate as a result of what happened yesterday.

That is the real issue as to how we are going to function. The question you asked that I thought was really on target was your question, when can the minority decide that a particular vote is meaningless? I think that is a real question. I believe that that time comes when it is beyond rationality, when it is beyond the range of discretion, when reasonable men cannot differ about it. I submit that if you took a secret ballot among the 54 Democrats about the propriety of a warrant of arrest and the process to which Senator PACKWOOD was subjected, the vote would be 53 to 1, it is that bad, and that is when we drew the line. And I think we are right.

Mr. KERRY. Will the Senator yield?

Mr. SPECTER. I was not hiding, and I was not running, and I was not peering around anywhere.

Mr. KERRY. Will the Senator yield for one quick comment plus a question in respect to his answer? And I respect the Senator's position and approach on this. But I think that all of us know that we were in the minority a short 2 years ago, and there were times when there were filibusters and people had a responsibility to stay here and conduct it. There was never a challenge to the ability of the Senate to continue. I do not question the minority's rights. The Senator is absolutely correct. Of course, there are minority rights. And the minority has the ability until cloture is invoked to continued debate. And it could have continued debate last night, which I think would have been the more honorable way of carrying out the designated repsonsibilities of this institution.

Mr. SPECTER. Why?

Mr. KERRY. I think that is the issue.

Mr. SPECTER. Why?

Mr. KERRY. Because there is a balance, there is a process. This is supposed to be the world's greatest deliberative body. What is this institution deliberating when there is no discord because 40-some people have decided to walk out into the night and go home?

Mr. SPECTER. Senator KERRY, what were we deliberating about?

Mr. KERRY. Had there been debate, we would have perhaps been able to talk about the merits of S. 2, the problems with S. 2, why there is a legitimate opposition on your side to the current proposals, and I think incidentally——

Mr. SPECTER. Senator KERRY, do you think that there was one chance out of 1 million that any mind would have been changed after midnight given the attitudes of the Senators, given the frames of mind, given the hostility, given the anger, given the wrath?

Mr. KERRY. If that is true, and it may be, then this institution as a body, according to this book, and according to years of practice, has the right to make that decision.

Now, the distinguished Senator keeps saying that the majority leader somehow arrested Senator PACKWOOD. That is wrong. The U.S. Senate voted to compel Senators to be here to conduct the business of the Senate. That was not the majority leader's decision. Those Senators present, under the rules which you have debated with the distinguished Senator from Arkansas, under the process which we have been given by history and by luck and all the rest of the precedent that builds this institution, voted. We voted that it was more important for the institution to be able to continue than to see the work brought totally to a stop by a minority that walked out.

Mr. SPECTER. Why? Why was there anything to be done in the U.S. Senate at midnight last night, or at 1 o'clock this morning, when Senator PACKWOOD was arrested and taken into custody, in the context of seven votes against cloture, in the context of a hardening of position, in the context of not one chance in a million that anything would have been accomplished?

Mr. KERRY. Let me tell you why, respectfully. Because the majority of U.S. Senators present and voting so decided. A majority of U.S. Senators present and voting so decided.

I have never understood when it was that the minority had the ability to decide what the majority present and voting do.

That is essentially what happened—anarchy, a form of anarchy, last night.

Mr. SPECTER. Well, I disagree.

Mr. KERRY. I know the Senator disagrees.

Mr. SPECTER. It was not a form of anarchy. It was a form of extreme pride. It was a form of saying that we will not subject ourselves to the kind of embarrassment——

Mr. KERRY. Subject yourself to debate? Is debate embarrassing?

Mr. SPECTER. There was no debate. There were a series of motions that constituted harassment. It was a situation which was demeaning. There are rules beyond which——

The PRESIDING OFFICER. If Senators who wish to question the speaker will address themselves through the Chair and seek the right to yield, I think we will maintain better decorum in the Chamber.

Mr. KERRY. The Chair is correct, and the Senator stands corrected.

Mr. President, I ask my colleague, because I must leave for a moment——

The PRESIDING OFFICER. Has the Senator from Pennsylvania yielded for a question?

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. SPECTER. I do, for a question, not for a speech.

Mr. KERRY. Was it not possible and was it not, in fact, anticipated originally that Members of the minority would speak and had the right to speak and that there could have been a debate, had the minority so decided to stay here and debate? Is that not accurate?

Mr. SPECTER. No.

Mr. KERRY. It is not accurate? There could not have been a debate?

Mr. SPECTER. The Senator's question was, was it anticipated by the minority that we would participate in a debate? The fuller answer is that there was no debate. There was a series of speeches scheduled where the minority was to occupy time; and whenever there was any interruption by a quorum call, that was followed with a vote, and it was apparent to the minority that the Republicans did not act precipitously.

The Republicans met and decided that the rules of the Senate was being flouted, whereby more than 41 Senators had said we would not vote on the matter, that the majority leader had made a series of statements about keeping the Senate in all night, which we thought went beyond the bounds, and we exercised our rights to be absent, and we have those rights.

If the Senator from Massachusetts is seeking to defend the issuing of warrants of arrest past midnight and taking Senator PACKWOOD into custody under the circumstances which were done, I think that is wrong. I think it is wrong because it goes to the basic way we operate. I am somewhat repetitive, but it is important in terms of comity and courtesy, without which this body cannot run, and this body is not now running.

Mr. KERRY. Mr. President, will the Senator yield further for a question?

Mr. SPECTER. I yield.

Mr. KERRY. Mr. President, I ask the Senator how it is that he can allude to a process with votes to somehow delay the Senate, when each and every time there was a quorum call, the Democratic floor manager asked to have the quorum call called off so that it would not result in a vote, and the objection came from the Republican side? How can you say that we were responsible for a vote? We tried to stop it, did we not?

Mr. SPECTER. The majority leader made a motion to compel the attendance of Senators.

Mr. KERRY. Did not the majority leader continually ask for the quorum call to be dispensed with so the debate could continue?

Mr. SPECTER. That is not the issue. The issue is whether the majority sought to engage in debate.

When a Republican speaker had concluded, had there been any real interest in debate—which there was not—or had it been meaningful Senate business, or had it been calculated to lead to some result, somebody from your side of the aisle could have stood and debated.

We were here all night, not with Democrats debating. We were here all night with Republicans speaking to an empty Chamber and to no ears. We were here all night in what was essentially a degrading and demeaning process. Why we did not suggest the absence of a quorum is sort of beyond me. I was asked to come in at 8 o'clock. I left this Chamber about 3:30. Do you know what it is like trying to get to sleep at 3:45 in the morning? You cannot do it. There is no sleep. There is time for a shower and to come back.

The Democrats were not debating. The Republicans were speaking on a prearranged order. There was no debate. It was a farce.

Mr. KERRY. Mr. President, I ask if my distinguished colleague will yield further for a question?

Mr. SPECTER. I do.

Mr. KERRY. Mr. President, I ask my colleague if it is not the rule of the Senate that if debate is exhausted or one side does not wish to debate and the other side has completed debate, it is the responsibility of the Chair to put the question, and the body should vote. Is that not the rule of the Senate?

Mr. SPECTER. It is not the rule of the Senate. What is the rule of the Senate is that when the debate has ended, there is a quorum call, and we wait interminably for some other speaker to come to the floor to offer amendments. Third reading does not commence when there is no activity on the floor of the U.S. Senate.

Mr. KERRY. Mr. President, a parliamentary inquiry: Is not the rule of the Senate——

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield for the purpose of a parliamentary inquiry?

Mr. SPECTER. No.

The PRESIDING OFFICER. The Senator from Pennsylvania retains the floor.

Mr. SPECTER. I yield the floor, and I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me pick up where we left off.

Last night, the majority was no longer a majority. They had left. They were able to muster 48 votes, not 50. But, more important, the claim of the Senator from Massachusetts, who now left the floor, that we were doing meaningful business is absurd on its face. What we were asked to be voting on was to establish a quorum that the majority, as a majority, could not itself establish.

The Chaplain's prayer was astonishingly appropriate: Fear of the Lord prolongeth days, he said. The trouble is that in the U.S. Senate, the majority leader prolongeth days—to absolutely no end, except to try to humiliate the Republican Party and the minority. If there were a debate, you would find this side debating.

The amendment tree is filled. The majority leader is in search of surrender, not a parliamentary process. He is putting pride, not principle, as the guiding force of the Senate.

During the course of the last year and a quarter, we have seen the changes in the procedures of the U.S. Senate, based not on any good for the Senate, but good for the majority leader. It started with his interrupting a rollcall vote in progress and getting the Parliamentarian to rule it was permissible, when clearly every Senator in the Chamber knew that it was not.

It was suggested that somehow or other we should have been debating. I ask, what is there to debate? The majority leader is seeking to impose his will.

I point out again that the amendment tree is full; it is complete. We have nothing to do except to surrender.

It is curious in its extreme that the thing which triggers debate now is the arrogance of the majority party last night in demeaningly seeking to arrest Senator PACKWOOD. That is why we are getting some response in debate. It is not about S. 2, under which the Democratic majority seeks to assure its ascendancy throughout the rest of this century. It is not about the details of that bill which limit campaign expenditures but do not limit those expenditures in soft money, which is the root cause of dirty campaigning.

It is not an issue as to whether or not those Democratic offices with different names, all having the same address in Chicago, write out scurrilous op-ed pieces and call senior citizens, also in the middle of the night, to terrorize them to think that somehow or other a party is in search of putting them into eternal penury, so that they die in poverty and shame. Those moneys are not part of this limitation of funds, and they are not sought by the majority party because they are the principal beneficiaries.

There is no debate on the bill because it is closed off. There is no interest in any of the words that are being spoken on this side.

There is an assertion that somehow or other the traditional rule of the Senate, spoken of by the Senator from Pennsylvania [Mr. SPECTER], is to be no longer a part of the principles guiding the Senate of the United States.

We cannot even get to a cloture vote. Why? Because the Democratic Party has too many people out campaigning for President and cannot afford to have a vote, because it would show a decline in their position.

So, what was the solution of the majority leader? It was to try to keep some Republicans here all night, speaking to an empty Chamber, to America's insomniacs, but not to Democrats, not to the point that we were going to try to change anybody's mind. It was just to fulfill a rote function in the hope that surrender would be the final act in all of this. That, on its face, is absurd.

Those legalities so well articulated by Senator SPECTER are important. I believe that what he said is right, and I believe that what he said America should hear.

I believe we were victims of an arrogant pursuit of pride last night, not of the legislative process. We even offered to assume that there had been a cloture motion filed and that a cloture vote occur at a time certain, trying to see if the rights of the minority to conduct an extended debate had run because sufficient minds had been changed. There were not interested in seeing if sufficient minds had been changed—only interested in a situation in which some of them could go out—we saw them in their dinner jackets and finery—out on the town.

I have no quarrel with that. But to claim that by absenting ourselves from this process we were absenting ourselves from something meaningful is absurd on its face. Nothing meaningful was going on, nor was it the majority's intention to have anything meaningful going. The meaningful actions were closed off, both as a vote on cloture and as the means to amend S. 2. So there was not a meaningful process, nor was there ever even the remotest intention to have it meaningful.

We, the Republicans, are accused of walking out on our duties to Americans. Is it our duty to our constituents to sit here and participate in what the majority party knows to be a charade? It is clearly not that purpose for which we feel we were elected. It was our role, and is our role, and is our intention, to call the notice of America to that process.

Nobody is interested in the complaints that we have. Nobody is interested in real reform of this process. There were yesterday afternoon, time after time, statements made as to how this bill could be amended so that real reform would take place and campaign limitations would be real.

There is no interest in that because, principally, and principally alone, it is the purpose of the majority party to put campaign expenditure limits on Senators, and Senators alone to spend the public's money.

Yes, I hear the majority leader say this is voluntary to check off. The checkoff does not come with it as extra dollars. It is a dollar spent out of the taxes owed. It has to be appropriated here.

We are going to be spending tax dollars in the period of time in which everybody is giving lipservice to the principal thing that is most on the public's mind, and that is, getting a handle on the deficit.

This bill commits $100 million or more. It does not go to limit campaign expenditures, except of individuals. It was pointed out that the public campaign support on the Presidential elections was a success. Nothing could be further from the truth. There has not been a Presidential candidate who has not been challenged under that law. Vice President Mondale was complete in his willing admission that he had spent $2 million in a State where only $400,000 was permitted. He paid the fine, but the result of the election was not changed.

So it is just another campaign expenditure? Pay a fine to break the law. That law is not working, and this law is not limiting the expenditures in the Presidential campaigns, and neither will the one that is in front of us as S. 2.

But is there interest in bringing that point out to America? Absolutely not. There is interest only in the achievement of a surrender. All over America, allies of the majority party are putting lies in the papers, some illegal, in the form of ads from Common Cause, the one who spent more than any other lobby interest in America last year, seeking to assure their interests, but no one else's.

Ralph Nader's cute little group, Public Citizen's Congress Watch I think they call it, putting op-eds in papers all over America, one in my own State, one in the State of the Senator from Nevada, one in the State of the Senator from Delaware, and others—I cannot remember them all. Nine, I think, to date—little op-ed pieces looking as though they had been written by responsible Americans. All over America, the same thing applies. The only difference is the name is changed with a cute little phrase in it that says. "Senator WALLOP is the willing servant of the corporate lobby." Now, what in heaven's name is the corporate lobby? But it sure sounds good when it goes in the paper.

These are the expenditures that will not be controlled, nor have they any intention of controlling them. These are political actions. These are not actions of a group of patriotic Americans in search of a cleaner election process. These are the actions of a group, certain of only one thing: Their desire for power and the power alone in the American political process, to weed out any other voice that Americans may seek.

So what do we get? Finally, we get a debate, not because of the bill and what it will not do and what we are not permitted to do, but because of the arrogant abuse of power last night, and somehow or another this hope that we can persuade Americans that the Republicans were irresponsible for not participating in the process, which was no longer a process, nor was there any intention for it to be.

I do not think the public will buy off on that. Mine will not, and I know of no other that will. It was demeaning and humiliating, not to the Republicans. That action last night was demeaning and humiliating to the Senate of the United States. It was demeaning and humiliating to the process which tries to bring this group together which loves to call itself one of the world's greatest deliberative bodies and has not deliberated in years.

There will no longer be debate on issues. If you try to impose will or you get some marvelous little thing like that continuing resolution that comes up here with arrogant insertions in the dark of night, how can you debate that? Nobody knows what is in it.

So what we are doing, we are posturing, once again. And, finally, we get something we can debate about. What is it we can debate about? The humiliation of the body as it sits in its entirety.

There was no humiliation of Republicans last night. There really was not. There was a humiliation of Americans at this institution, in which they seek to put their trust and hope somehow or another it will serve their interest in a responsible way and could not.

The rights and rules of the Senate, the traditional processes, sense of comity, the ability to try to make this body work, those were shuffled aside in pursuit of pride, shuffled aside in pursuit of an abuse of the whole concept of American poitics, as defined by the Senate, which is for the very same reason that the State of Wyoming has two Senators, the State of California has two Senators. It is the very same reason that the protections were put into the whole process; to avoid the abuse of power by a majority of one.

That abuse of power by a majority of one was not even available to the majority party last night. They were home, gone, campaigning or in bed and could not muster their own majority. And so in order to get their will, they send out arrest warrants for Republicans, and then claim they have the right to serve them.

I am surprised at that, Mr. President. I am surprised the Senate put up with it, and, I hope, somehow or another, out of all of this there is the realization that the public's business is more important than the pride of any single individual who seeks only a victory and is willing to go to any extent to achieve it.

Going to any extent is not the way the Senate was designed. It was not the way it was conceived. It is not the

means by which our rules are written. It is not the procedures which we have always followed, but it is the procedure and purpose and practice, apparently, in this Senate. I regret it, and I am certain America will, too.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I just have a few remarks to make. I ask unanimous consent my remarks not be considered a second speech under the rules.

Mr. BRADLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. I will make my remarks anyway.

Mr. President, the Constitution gives many explicit powers to the Congress and the U.S. Senate. It is clear that the Congress has the power to regulate commerce, to raise and support armies, to lay and collect taxes, and to compel the attendance of absent Members. It is equally clear that Congress and the U.S. Senate may not exercise those constitutional powers in a manner that violates other provisions of the Constitution. The Constitution must be read as a whole and no single constitutional provision must be allowed to override other guarantees within that document.

When this body exercises one of its powers in a manner that offends the Constitution and its guarantees, the Senate has an obligation to correct the offense. This brings us to events that have occurred recently in this body that I have decried this morning.

No one questions that the entire Senate has the power to compel the attendance of absent Members. This provision is found in article 1, section 5. No one should question either that the Senate may not do this without guaranteeing to the absent Senators full due process rights, under the 5th and 14th amendments, full rights against unreasonable seizures under the 4th amendment, full rights against seizure without warrants under the 4th amendment, full rights to be informed of the nature of the accusations against the Member under the 6th amendment, full rights against unusual punishments under the 8th amendment, and all the other rights protected by the entire body of the Constitution.

So when we lecture on constitutional law, we ought to consider the Constitution and not just our own personal sociological preferences with regard to constitutional law. I think that is what has been happening through the years, as we place people on the court, as they express their own biases and prejudices about the law.

Last night, I think, that happened.

So when the Senate exercises its power in a manner that offends these constitutional powers, that power needs to be reconsidered. This has occurred. Due process prior to the deprivation of liberty entails many standards that were not met when Senator PACKWOOD was taken into custody. For instance, no warrant was issued for that arrest by a detached and impartial magistrate or judicial officer. The need for such detached review of warrants for arrest has always been a hallmark of constitutional protection under due process and the 4th amendment.

Accordingly, I propose today that the Senate repeal the rule permitting the Sergeant at Arms to compel the attendance of Members by arresting them. Instead, the Sergeant at Arms could be sent to request the attendance of members, but no authority to arrest would be permitted.

Mr. President, We need to look closely at the Constitution. Article 1, section 5 says that Senate's power with respect to absent members is to be exercised "in such manner, and under such penalties as each house may provide." Thus, the Senate does not need to empower the Sergeant at Arms to arrest Members, but may choose any number of other remedies to ensure Members attend sessions. The Senate may wish to suggest, by a vote after the fact, an ethics investigation for dereliction of duty in the event that a Senator ignores the Sergeant at Arms' request to come to the floor, but if they do that, they better not be playing politics.

Others might be considered by the Senate if it became necessary, but arresting Senators without due process must never happen again, with an accompanying Senate lecture on constitutional law that is totally wrong, false, and I think offensive.

This Senate stands as an example of how the Constitution must operate. If this body allows due process protections to be flaunted, then I shudder to contemplate the example we have set.

Last night, we flaunted the Constitution of the United States in the approach that was taken. Once again, the solution is to eliminate any authority of the Sergeant at Arms to arrest Senators. I introduce such a change in the Senate rules at this time. I send this amendment to the desk.

Let me just read it before I do. This is a resolution which says:

To remove the power to arrest Senators from the Sergeant at Arms.

Resolved, That paragraph 4 of rule VI of the Standing Rules of the Senate is amended by striking ", and, when necessary, to compel".

Mr. President, the Senate operates in full view before the entire Nation. What are the implications of flaunting the Constitution, arresting Senators without valid warrants or due process of law?

I will be happy to suspend for a second.

The PRESIDING OFFICER. Is the Senator offering a resolution for assignment to committee?

Mr. HATCH. Yes.

The PRESIDING OFFICER. Without objection, the resolution will be received and referred to the appropriate committee.

Mr. HATCH. I am also putting the Senate on full notice that the resolution will be brought up in a formal amendment if this bill goes any further. Let me make that point again.

The Senate operates in full view before the entire Nation. What are the implications of flaunting the Constitution, arresting Senators without valid warrants or due process of law? What lessons does this teach our children, our courts, and our citizens?

Article I, section 5, says the Senate may compel attendance, but not in an unconstitutional manner.

Nor can article I, section 5's powers be used solely to gain political advantage or to make partisan gains. The Constitution is abused whenever it is twisted to gain partisan advantage. It is a further abuse of the law and of the document, meaning the Constitution, to abuse due process. These points need to be made. I think I have made them. When the time comes, I am going to bring that amendment up at one time or another to make sure that this type of officious action will never occur again.

I do not want it to occur to Democrats and I do not want it to occur to Republicans. I want the principle of comity and civility to prevail in this body. If we have a cause to cause Senators to come in, let us make sure it is a good cause and not some claptrap bill such as this bill amounts to. That is what it amounts to. There is only one reason that all the Republicans vote against this bill and the Democrats vote for it. That is that it is a Democratic bill, to enhance the power of the Democratic Party to the disadvantage of everybody else, but especially the Republican Party. There is not a Republican alive who should not be suspicious of that kind of meddling. It is just that simple. This bill amounts to that, even though there are some aspects of the bill where you might point to them and say they might be good if the bill were enacted. But on the whole, the bill is a travesty. I think everyone knows it. With that, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, those of us who were here all night had a very spirited evening. I will not go into it. It is all in the RECORD. The majority leader was very fair in allowing us to avoid two additional rollcall votes

which would have been required if anyone were absent on either side of the aisle. We were able to vitiate those. But let me just review where we were as I left the Chamber at 5 a.m. this morning. Our people were here and the bargain was made and the deal was kept. The two votes were vitiated and we did not do any obstructive activity. We did not suggest the absence of a quorum. So for those who may have missed the scenario, let me review it, I think correctly. The majority leader certainly can assist in correcting it if I have missed something.

The bill is still unamendable at this point. The amendment tree is filled.

The leader has wanted to get to a vote on this bill. We have, too. The only difference is that he wanted a vote on the measure; we want a vote on cloture because they would succeed on the former and we will succeed on the latter. So let it be known that indeed the issue is joined.

Then the majority leader filed cloture on this bill after midnight last night, very correctly, happily, and in perfect order. As I understand, that vote will be on Friday, 1 hour after convening. The convening hour was previously set by unanimous consent at 9 a.m. through the week. That vote on cloture, therefore, would be at 10 a.m. Friday.

At this present point in the proceedings, if we were to allow the bill to proceed, and if the Chair were to move the question or pose the question, then one of us on the floor would seek recognition, and that would have to be given. The Chair would have to give recognition to whoever was on the floor so that the motion to move the question would not go any further to a vote because one of us would be here at all times to assure that that did not take place.

Once a Member of our side is recognized, then they may go forward for an hour or 2 or 3, and probably there would be no votes. But there might be.

In any event, if we were to allow the bill to proceed, and that is why I just want to review this, and to try to amend it in that situation, after opposing the ability to go forward, then it is clear that any of our amendments would be defeated on perhaps a mostly party line vote, although there are two Members on that side of the aisle who are assisting us in this cause and three Members on our side of the aisle who assist the proponents of S. 2.

The majority leader has advised us that this is a very vital issue to him and that those who oppose S. 2 remain on the floor in active debate pending the resolution of this matter. We are doing that. That is the majority leader's option and his right. That was the situation we faced last evening.

After a meeting of the leadership, now I as acting leader in behalf of our fine leader, Senator DOLE, and three members of the group of four are negotiating this issue for us and still doing that. The negotiating is going forward and I am very pleased with that.

Senator BOREN heads up the four from that side of the aisle with Senator LEVIN, Senator MITCHELL, and Senator EXON, and on our side it is Senator MCCONNELL, Senator PACKWOOD, Senator BOSCHWITZ, and Senator STEVENS.

They are going to meet again today. So they are working. Let the American people know that a bipartisan group is working and that it is not a bipartisan issue, and that it is not the proponents alone who seek reform of campaign; it is all of us who seek reform of campaigns.

We are coming down to PAC's, independent expenditures and soft money, things of those kinds. They have been debated very well here. We feel strongly and they feel strongly.

Last night after a leadership meeting we decided to proceed with a procedural defense of our position on the bill, and fully within our rights and under the rules we instructed our Members to remain off the floor and not to make a quorum in an effort to have the proponents provide the quorum necessary to conduct late-night and early-morning business. That, of course, took place, and all of us did late night-early morning business, except some of us on this side who we substituted who carried the day from about 3 o'clock or 2:30 until this morning at 10, pursuant to the agreement between the majority leader and myself. That was carried out with comity.

At the time of the vote, the majority leader, with regard to suggesting the absence of a quorum, felt it was very important to do a dramatic thing that has been exercised only twice in his 22 years of leadership, which was to move and second the arrest of the absent Senate Members. That motion was one of only two that could have been made in that atmosphere of procedure—a motion to adjourn, a motion to arrest or a motion to compel. He chose that one and we went forward.

I do want to commend the Sergeant at Arms, Henry Giugni. It was a terrible task for him. He knows us all. He selected his staff people to go through this building, through the hideaways with passkeys checking on the troops, and he found one. Some fled, apparently. Of course, we know that Senator PACKWOOD came in. That was done in great good humor. The majority retained his humor and Senator PACKWOOD retained his. It was a sight I will never forget. He was lifted into the Chamber at approximately 3 o'clock a.m. At which time, hardly the doors had shut when they said a quorum was present, and indeed it was. We did our business. Of course, the ritual can be repeated again and again and again and will be today, repeated again and again and again.

I just want to share that.

I commend the Sergeant at Arms for his patience, his equanimity, his good skills in not letting the situation get to what could have been an absurd situation. I thank him for that. And the staff of the Sergeant at Arms office.

We on our side promised those who wished to go home that we would see that what votes they missed were procedural only, that they might miss votes, that they would be procedural votes and not on the substance of the bill.

The majority leader was perfectly within his rights under the rules to move to go into executive session to consider the nomination of Tom Korologos to the Civilian Advisory Board.

We all know who Tom Korologos is. He is a most extraordinary gentleman with a very good reputation. So there would not be very many votes against Tom Korologos at that hour or today.

However, that was a motion to go to the Executive Calendar and that was not debatable. But that was still one more vote. Then going to the nomination itself was debatable. At that point, we determined that we would debate the nomination of Tom Korologos most all night, which would have been another exercise, but there are not any of us who are unskilled in that.

So we did avoid that by the majority leader's willingness to vitiate that and the other motion to go into executive session.

But I would say that it seemed rather an inappropriate time to go to the Executive Calendar at 2:30 a.m. to consider the nomination of Tom Korologos. It seems to me that might have been done in a more timely fashion at perhaps some other time in the session. All of that was within the rules and rights of the majority.

We did indeed have three votes last evening and the night for all Members on procedural matters in relation to a quorum and one vote on proceeding to an executive session. At that point, since the proponents demonstrated that they needed a quorum present, and every single one who was within the 2,000-mile radius of the Capitol with any ability to be here was here, they met the required number of Members to make a quorum. So we made our arrangement to have Members on our side continue the debate without votes until 10 a.m. this morning, not just as an accommodation to this side or the opponents but to all Members who had gone home last night and had missed procedural votes that could have occurred on very short notice.

So that is where we are. I just wanted to kind of review that. We are

now prepared to go forward. It is our duty apparently to go forward. We have no choice but to go forward with a long string of voting activity. That is within our right to do.

We have had discussion as to the legality of the warrants that were presented to the Chair last night and whether those were valid. We will discuss that later in the day. That is my hunch.

At this time I do not want to foreclose the majority leader, who is now on the floor. I will cease. I would like to retain the floor for the purpose of further activity. I will certainly let the majority leader comment. I greet him on the morning hour and look forward to perhaps getting some semblance of reality. At least we know that at Friday at 10 o'clock we will reach ultimate reality.

(Mr. WIRTH assumed the chair.)

Mr. BYRD. Mr. President, I thank the distinguished acting leader for yielding to me. Of course, I was not on the floor and I have not heard his statement, except the very closing of it. I understood him to say that we, meaning, I presume, the opposition to the bill, had no choice but to go forward with a number of votes or voting activity, whatever.

I might respectfully suggest that we do have a choice. I would hope that we would follow the choice that I will recommend.

I recommend that we go forward with the debate on this legislation and not pursue the approach that has been taken overnight of having quorum calls, instructions to the Sergeant at Arms, and votes that are not on the substance of this bill. I know that there are Senators who are not only opposed to the bill but who are vehemently opposed, and I do not question for a moment the wisdom of any Senator as he views this legislation or any other legislation in his own lights based on his own experience, view of things, philosophy of government, or whatever.

But, Mr. President, this is a forum in which I would hope that we can have civil discussions and express our opposition to this or any other measure and express it in persuasive terms, hoping that they will be persuasive, without resorting to tactics that contribute nothing to a meaningful and enlightened debate of the substance of this bill.

One of the purposes of the resolution which I introduced to provide television and radio coverage of the Senate was to help the people to better understand the substance of legislation or treaties or nominations that are called up before the Senate.

We can have substantive discussions of this bill. The opponents can defeat this bill. The Democrats are unable in and of themselves to produce 60 votes for cloture. We cannot do it. We only have 54 votes, if we would produce them all. Two last night were very ill, two of our Democratic Members, one was away because of a funeral, a death in the family, and the other one is out campaigning for the Presidency. That leaves us with only 50. There is no way under the old math or under the new that 50 can ever be a majority of 100 Senators. And so the opposition need not resort to tactics such as those that were resorted to last night.

Of course those tactics are within the rules and precedents of the Senate, but the actions that were taken by the majority in attempting to respond to those tactics are also within the rules and precedents of the Senate and within the authority of the United States Constitution, which is the bedrock of our liberties and which is the organic instrument that created this body.

I hope that we will not live over and yawn in yesterday, that we go forward with a reasonable, civil debate on the substance of this bill. And let us hear those who are opposed to it. They have a right to speak their objections to it. They have a right to try to persuade those who are not of their persuasion at the moment. We have the same right and duty, I think, to persuade our colleagues of the rightness of our position.

We certainly owe a duty to the American people to try to enlighten them as to our view of the substance of this bill, our support of the substance, our opposition to the substance. Perhaps there are changes that can come about. We have the amendment process available. We Democrats are ready to vote, and we have had the support of three Members on the other side of the aisle. We are ready to vote on the amendment, the pending amendment that is before the Senate. It can be voted down, thus opening the way for additional amendments. A move at any time can be made to table this bill. Who knows, maybe it can be tabled.

So I urge our friends who are the opponents of this legislation not to resort to tactics that obstruct working the will of the Senate. I urge them not to resort to quorum calls, which lead to the necessity on the part of the majority of the Senate to instruct the Sergeant at Arms to request the attendance of absent Senators, to compel the attendance of absent Senators, or in the extreme to arrest absent Senators. I hope we do not have to resort to that. We do not need to if Senators will only debate the bill. I for one am willing to enter into a discussion of having a time agreement on the bill, of avoiding a cloture vote, a time agreement for final vote, a time agreement that would include germane amendments that the opposition may want to offer. I certainly have no objection whatsoever to the Senate working its will on amendments that are germane and relative which I may oppose. I have no desire to do that. I may do what I can through debate and through voting to reject amendments that I am opposed to. That is our duty. We all know that. But there is no good reason to continue in the kind of guerrilla warfare that we are going through which serves no good purpose, which does not help us to change the legislation, modify it, amend it, pass it, or reject it.

So may I close by thanking the distinguished acting Republican leader for yielding to me, and I urge with him most respectfully that both of us do what we can to urge our respective constituencies within this Senate and our colleagues to not look backward, if we can possibly avoid it, look ahead and try to deal with this legislation. It will not be before the Senate forever. But the Senate does have a right, if it can do so, to work its will on the legislation.

I have said before and I say again I think the legislation is good legislation. It can be improved. I think it is an idea whose time has come. My side may not prevail in this matter on this occasion, but I have faith that ultimately the Senate will one day take action to enact genuine campaign financing reform.

So I urge that we all attempt to restore some civil equilibrium here and stop the making of charges and countercharges and rehashing the unfortunate and regrettable events that have occurred, pick up from here and try in a positive way to bring some sense of positive direction to the Senate as it concludes its work on this bill and goes on to other things.

I thank my distinguished friend and I do respect him as my friend.

Mr. SIMPSON. Mr. President, that is a given. I have the deepest respect for the majority leader. I have shared that with him privately and publicly. We are very much alike—sensitive. I know I get too sensitive sometimes. At least that is speaking for me. Sometimes I get defensive, especially in my role as acting minority leader, realizing that it has fallen upon me to do that, realizing I have a task to do to meet the needs and views of my colleagues. And I have just come from a meeting with my colleagues so I know what I have to do and, as Senator BYRD said yesterday in an aside to me, a very cordial aside, he said, "You know, you have to do what your Members instruct you to do when you are in leadership." And I said, "I know, it is tough sometimes because the other side of me is wanting to do something else, perhaps." But we are going to go forward in this way. I hope the American people will understand what is happening. I think they do.

I am one who has always believed the American people are really smarter than their elected officials, and that is why the system works so beautifully. They have a great innate wisdom and a remarkable common sense, and we gain from that when we go home and they say to us, "Hey, what are you doin'? What are you up to?" And you say, "Well, I tell you what we are doing. We were romancing rocks and we were doing this and we were explaining this and we were moving under rule so and so." They say, "Well, why don't you do your business?"

There is business to do in the U.S. Senate. That is what the American people know. The crush is on. The American people surely know by now, they know one thing and it must be seared on their minds. We have had civil discussions on this measure several times. The occupant of the Chair last night gave us a very good review of how many times we have used cloture in the last 8 years, or 10, I cannot recall which. The high water mark was five on one bill. The other three instances were four each where there had been cloture invoked four times on three separate occasions and cloture invoked one time on five separate occasions, and there has never been anything in the history of this body where we have voted seven times on one issue and not one word of it has been—oh, yes, I take that back. There have been words changed in it as it has been submitted and star printed and it has a checkered history that looks like a heifer that has changed hands about 30 times with a brand on every part of the anatomy.

So that is what we have done. Those have been civil debates. Now we are on the eighth go-round, with a lesser opportunity to invoke cloture than ever before, because of the demographics and illness of our dearly respected colleague, Senator BIDEN. We all wish him well and Godspeed. He is a splendid chairman, and I am one of the members of his committee.

So the slippage is there. No one is going to go over to their side. No one is going to come from their side to us. They are all locked in. They are battened in. They have the hatches down on them. They could not possibly change.

So we are going to go until Friday, at 10 a.m., doing nothing, absolutely nothing. There is no other way to describe it. I wish I could think of a better word. But nothing times nothing is nothing.

Then we are going to vote on cloture at 10 a.m. on Friday, and the vote at the high water mark will be 57, and they need 60, and that is it. School is out. Off for the weekend. Come back next week, and then the weeks shorten and collapse in on themselves: INF, trade bill, catastrophic health care.

I will tell you, the American people care a lot more about that than this, because the American people know full well that everyone of us here wants campaign reform. I, personally, am ready to cut PAC's from $5,000 down to $1,000. I will vote on that. But if this bill clips along here without going to cloture, I will not get a chance to put in that amendment. It will be squeezed out.

I am ready to do independent expenditures along the lines of what the occupant of the Chair was talking about last night. Excellent. I am willing to do something with soft money and in-kind contributions and still allow the proponents to have their ability to do that. We are ready to do that.

In the course of the debate today, some stunning figures will be presented. The new quarterly reports are out on all of us. We are public record. It will disclose that some of the proponents of this legislation have taken three-fourths of their money from PAC's—three-fourths of their entire quarterly report financing coming solely from political action committees, while they then speak of the necessity for reform under S. 2, which does not touch PAC's.

I will tell you, the American people understand that stuff so clearly. We have a word for it in Wyoming, and I am not going to leave it here. My mother has given me a serious charge about that. But that is what we are talking about, and that is going to be presented, because the records just came out this week or last week. We all filed.

It is very difficult to understand why proponents who want to avoid corruption and the bloated system and the whole business of filling their coffers with PAC money would then vote for a bill which the only thing it does to PAC's is to limit the aggregate but does not limit the $5,000 each they can put in the kitty. That cannot be. That is called fairness.

So let me share with you that the debate that the majority leader would like to take place without disruptive behavior will be from our side only. The American people know that that is not fair. The debate from our side has already demonstrated very clearly the fallacy of calling this reform. We are beginning to hear the American people, and they are saying, "We didn't know that. We didn't realize what was being said. Arch Cox led us astray."

Arch Cox did lead us astray with an ad which would not even be covered under S. 2. I understand that litigation is being prepared against Common Cause. I know that is a hideous thing to do, to bring litigation against such an organization. I used to be a member of Common Cause. I think they do great things—they did—but in this one, they have lost the linkage system somewhere between reality and myth.

I would love to debate anyone, anywhere, with regard to the activities of Common Cause on this one, when the proponents of S. 2 choose to do nothing with PAC's.

So we are not in a position, as opponents, to let it go forward, because we would not prevail. We will prevail on Friday, at 10 o'clock.

So we are ready to go all night, and we will, but we have pushed all our chips in. We have done that.

The debate, if it is to continue without any further activity, is a burden only on us. Any further debate in this Chamber on this bill is just on us, the sleepless ones, and votes on procedural matters are a method of sharing the burden, if you will, among all, including those who are insisting on our side carrying the debate alone. That is a reality of legislative life.

In our arguments, and we will have some good ones—we will not be reading from old Ma Perkins' radio tapes—we are going to be telling the story about what is happening in this bill, especially since we whacked it to death seven times and are going to whack it to death again the eighth time on Friday. As I say, nothing times nothing is nothing.

We are beginning to get the message out regarding the true nature of this bill and especially its remarkable shortcomings and the hypocrisy couched in it.

I say that the group is working. I commend them. I will visit with them. I know that the majority leader feels the same way, and more power to them. But we are no longer willing to shoulder the debate on into the night again. We are going to see some surcease and allow others to participate.

Therefore, I respectfully suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. SIMPSON. I certainly do.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I am sure that the distinguished Senator from Wyoming and I could carry on this debate through the long afternoon; and he could carry it on longer than I could, I am sure. But as long as it is a meaningful debate, perhaps that will be all right. But there are others, I hope, who would participate in such debate.

I believe the distinguished Senator has said a few things to which I should briefly respond.

To begin with, he spoke of the fact that our illustrious colleague, Senator BIDEN, is ill, and he did so, I believe, by way of emphasizing in his view the futility—I will use that word—of our continuing to debate this, saying, of course, there is no chance for the

Democrats, about all of whom support cloture and the bill, to invoke cloture.

Mr. President, I cannot be guided by that fact—that one of our distinguished colleagues has been hospitalized and will be recuperating for quite some time.

I indicated last year to the American people, and I indicated again at the beginning of this year to the American people and to our colleagues, that the Senator would try again, that it would be my intent to bring before the Senate again the campaign financing reform bill. I made a commitment to do that, and I am attempting to live up to that commitment.

As to the destiny of the bill, the final destiny of it as being one of its demise, it may be an accurate prediction and it may not. I think the only way we can truly find out is to let the Senate render its judgment; let it vote. So that is what I seek to do.

The distinguished acting Republican leader mentions that there are so many other very important issues that the American people, in his viewpoint, feel are more important than this bill. He has mentioned catastrophic illness, and so on.

Mr. President, may I say that catastrophic illness cannot be brought before the Senate today or next week. Even if I were to displace this bill on the calendar within the next 60 seconds, which I can do, catastrophic illness could not be brought up before the Senate. It is in conference. The conferees are working on it. Yesterday, I asked Mr. BENTSEN, who plays a very important part in the conference on that bill, because it is a matter that comes within the jurisdiction of his committee, and he informed me that the conferees are working on the trade bill and they would not be ready to bring up the catastrophic illness conference report until they have completed their work on the trade conference report. So catastrophic illness cannot be brought before the Senate at this time, no matter what.

The distinguished acting Republican leader mentioned the INF Treaty as being more important to the American people. That treaty has not been reported from the Foreign Relations Committee. I am not telling the Senators anything they do not know. But in view of the fact that things are said on the record which, to some extent at least, could be inferred as being a wrongful judgment on my part in calling up this bill, as to whether or not it is more important or less important than the INF Treaty or more important or less important than something else, I think I have to state for the record—to be read by my grandchildren and theirs—that the INF Treaty could not possibly come before the Senate at this time. I have already stated the same with respect to the catastrophic illness legislation. I can say the same with regard to the trade bill, which I have already at least impliedly stated. The same can be said with regard to the budget resolution.

If there is anything I would put ahead of the INF Treaty or ahead of this bill, it would be the budget resolution, if it were ready to be called up; because until we get that budget resolution right—my distinguished friend from New Mexico is the ranking member on the Budget Committee and he nods his approval—until we get that budget resolution adopted, we cannot call up the appropriations bill.

It is my hope that we send the appropriations bills to the President this year in due time rather than in an omnibus appropriations bill. That was my viewpoint last year.

So, Mr. President, as the majority leader, I have to look at the overall year of activity before the Senate. I have to attempt to crank into the session these various measures when they are ready to be called up. It was my judgment that the time was now to fulfill my commitment to the American people and to the Senate that the campaign financing reform bill would be again called up.

Yes, Mr. President, the distinguished Republican leader has mentioned the reports with respect to contributions, fundraising, and so on, by Members of the Senate, and he mentioned specifically the proponents, the fact that they have taken money from PAC's.

Mr. President, we all know that the proponents have taken money from PAC's. I have taken money from PAC's, and it is the rule, it is the system that we now have, and I have to live by the system, as I find it today. It is a bad system, and I have to prepare for my own reelection. I want to continue in public service. I think I have something to contribute still, and so I have to be prepared for opposition which may be well heeled.

I have noted that my opponent in the fall was brought to Washington in an airplane and talked to by certain powers that be in the capital here who have some voice in the disbursement of funds, and he was promised that he would be given funds and be provided with help by way of research. It was reported, it has been said, that President Reagan would go into West Virginia and speak on behalf of my opponent at fundraisers.

And, by the way, I welcome Mr. Reagan in West Virginia at any time, even speaking to a fundraiser for my opponent. Let him come, let him come to West Virginia.

But I have to be prepared. I, unfortunately, in 1982, did not prepare adequately for a very vigorous campaign against me, not only by a millionaire opponent, who was a Member of the House of Representatives at that time who had a good springboard thereby, but also was the subject and the target of vicious attacks by an outfit from outside the State called NCPAC.

I tried to take protective measures in this instance by raising funds, as other Senators have to do. But I have to work within the system, and this is the reason why I so vehemently support this legislation, so strongly support it. I want to change the system, and the only way I can change it is to work within it to change it. So I am doing that.

I happen to believe that the legislation before the Senate will change the system. It is not perfect legislation. But I say to my distinguished friend, the assistant Republican leader, let us try to change it. If there are flaws in it, perhaps we can work out an agreement whereby we can have votes on the amendments that are being proposed. But we will not be able to get to those amendments if we continue to see a continuation of the tactics that have been resorted to in the last few hours.

We are on an important matter, and it is fundamental to our way of government. It is fundamental to the public trust in this institution. We have to get the big money out of politics. We have to clean up our own house. It is not a partisan issue. It is an institutional issue. It is a good government issue. Good government, that is what it is.

Now, the ways are open, the rules are open to changes in this bill. The opposition says that it will kill the bill. I would invite the opposition which says it will kill the bill to help to bring about ways by which the amendments which the opposition would like to offer, if they are germane and relative, would be called up. Let us work out an agreement whereby amendments on both sides will be called up, and we can have a final vote on this bill on a given date. That, seems to me, should be fair, and I welcome, hopefully, an opportunity for us to do that.

We cannot allow this money chase to continue as it is going. It is going ever upward into the stratosphere already, and public trust is going to continue to erode. Mark my words.

So why can we not get the bill up? Why can we not get the bill up and discuss it? The bill is up, but why can we not discuss it in a rational way? The vote will come on cloture. In the meantime, let us debate this bill. Perhaps we can find ways to change it, to modify it, to improve it. What is wrong with that approach? We do not simply have to put our foot down and say, "We're going to kill it," and in the meantime we are going to use obstructionist tactics, we will resort to guerrilla warfare, we will prevent the Senate from acting on amendments or anything else. We will not even have civil debate. We will just put in quorum calls, we may boycott the vote, and we

are just going to stubbornly and obstinately refuse to cooperate in trying to improve this bill and have a vote on it.

So why are some of the Members so afraid to discuss it? Why are they afraid to discuss it? This is vital reform legislation. They have a wealth of talent that they could contribute to reform legislation, a wealth of talent that they can contribute to modifying or improving this legislation. It is a voluntary system that we are proposing, and Senators ought not be afraid to discuss it. So I know that the distinguished acting Republican leader will proceed as he feels he has to proceed, and, in the final analysis, may I say again, that this is not the omega, the alpha and the omega. It is not the end-all and we should not, I hope—let me apply this to myself—become so passionately and so partisanly enraptured or involved in this that I carry enmities, ill will, or that I injure the feelings of others.

If it came to a vote on tabling this bill today, and it were rejected, I would say I think the Senate made the wrong decision and forget about it. That is gone. Let us get on to the next item.

This is not a Democratic bill. It is not a partisan issue. I do not know how I can say more than I have said hoping that what I have said will help us all somehow to lower our voices and try to approach the bill with a view toward debating it, its flaws, its merits and having a final vote on it.

The opponents are so sure that they are going to reject it. Maybe they will. But there is no surer way to find out than to vote on it. That is all we ask.

Mr. President, I thank the distinguished Republican acting leader again. He has been most patient and very courteous in yielding to me. He did not have to yield to me. He could have at any point refused to yield further. I thank him, and I respect his viewpoint. I respect his opposition to this bill. I respect his criticism of it, and I will respect any way in which any advice that he would have toward moving ahead in a positive and reasonable manner to a conclusion of debate and action and, hopefully, an improvement of the bill in the meantime.

Let us put aside yesterday and last night. I would hope we would not mention it and go on with this bill, and criticize this bill. Those who are opposed to it, let them speak most vehemently and passionately against it, but always they will find this Senator, and I intend to live up to what I am saying with my hand out and ready to extend that hand of goodwill in the hopes that we can, indeed, come to together and reason together and let this Senate make its decision.

If I can be helpful in participating in any meetings, working out any time agreements that will further the action on the bill, amendments thereto or whatever, this Senator stands ready all day and night, any hour of the day, any hour of the night. I do not know of anything further that I can say, and I apologize to the Senator for my verbosity, my circumlocutions and my long-windedness.

Mr. SIMPSON. Mr. President, but not his eloquence. There is no apology necessary there, and that is an extraordinary part of my friend from West Virginia.

I know how the majority leader and I work. We say we are going to be quite, but we just cannot resist the one more shot.

That is part of my training.

Mr. BYRD. Will the Senator kindly yield?

Mr. SIMPSON. Yes.

Mr. BYRD. I am going to listen with great patience and understanding, eagerness and admiration to what the Senator says. When he finishes, I am going to remain in my seat no matter what the urge may or may not be.

Mr. SIMPSON. What an extraordinary blurb, Mr. President, to have that. I must then temper my remarks.

Let me say this: I have come to know you. You enjoy this. You are a chess player. I do not want to be discourteous and speak directly to the Member.

I would say, Mr. President, the majority leader is an extraordinary chess player. There is no one that I enjoy watching work through an issue more. You can almost hear the whirring of the engine when he is pacing here, thinking of which approach to take in view of the approach taken by someone in the opposition. It does not matter about partisanship. It is an astounding thing to watch. He is the ultimate, the quintessence of a legislator. He has the mind of a Parliamentarian, the voice of an elocutionist, and a magnificent intellect. It is all self-developed. That is an extraordinary thing. He is a Horatio Alger living. I know that. Anyone who has read history of the man knows the persona of the man.

But we do box each other around and I guess I have lived and always lived under the phrase—not a phrase, I have ingested it—hatred corrodes the container it is carried inside. I never carry that. There are those who use that phrase, especially in Washington, do not get mad; get even. I always say add one more, get sick, because that is what happens when you play that game of do not get mad; get even. You want to add get sick. That is a truly wretched, shrivelled way to live. That is not the way I live or the way the majority leader lives or he would not be a fiddle player and a story teller. That is the way it is.

So I would conclude, because remarks have been made about the American public and I understand we need to do that while we are here in the morning or midday while people are watching the proceedings. It is a good Government issue, one that I am just as interested in.

I remember the independent campaign against you was scurrilous, but this bill will not reach that. It will not reach it the way you would like to reach it or I would like to reach it, or the man who beat Chuck Percy. It will not reach him. It will not reach the person the majority leader had unleashed on him.

That is what is important. We can say we can make the amendments, but we would not have that opportunity. Seven times we have had that opportunity and seven times we have won the day. It is really a fairness issue.

If we were just to go on and discuss and debate, then I assure you we have no illusions about what would happen if we were to allow the pending question to come to a vote, or if we were to offer amendments to the bill when those amendments may be in order. They are not in order now. We have no illusions. We would lose.

But the minority and the opponents in resisting a bill that it opposes and blocking the imposition of cloture is also another way that the Senate works its will. The majority leader knows that better than anyone here.

So for us, the majority leader need not continue the around-the-clock activity. It serves no purpose, none, other than perhaps to, I think, lessen a little the stature of what we are trying to do here.

The majority leader is right, we cannot go to certain things. But we have a calendar which is very thick. Here it is. However, there are objections in there from my side of the aisle and his side of the aisle. But Price Anderson might be one we can deal with. That is a very important issue. The leader has indicated that. It is about liability insurance of commercial nuclear reactors. I do not know if that is ready, but that is one.

That book is stuffed full of things, but, you know, everybody has a little hook in there.

I do not think that this strengthens the public's attitude toward the Senate and what we do here. I think it lowers it a bit and tires us all.

We will now be working out shift work because we have to go forward and that is what we are going to do, the Members, the staff, the police. All are involved here, not just me. I have a constitution like a horse.

But if we go ahead here and just go to this debate that the majority leader speaks of, then only us, only we here, will be losing, like the horses that were rode hard and put away wet. That is not a thrilling prospect for us. So we want everybody to join in equal amounts of pain.

The majority leader, and I do not want to misquote him at all, and I will

give him the opportunity when I make the suggestion of the absence of a quorum, told us two or three times, and at least twice that I remember, that this, if it developed, was not going to be a gentleman's filibuster. That was the phrase. I do not want to misquote a bit of it. That this would not be a gentleman's filibuster and, in essence, there would be elements of hard ball. Hard ball is a team sport and the way you play a team sport is that two teams play it. So hard ball, on that aspect of the proponents, is hard ball on our side. It will not be done with enmity, hatred, disgust. The majority leader and I would never allow that to occur. We do not let that occur on our own level of being in our own lives, with our families, so why should it occur out here.

We are in it and I have had my meeting with my people, and the leader knows my people.

QUORUM CALL

Mr. SIMPSON. Mr. President, I now respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll and the following Senators answered to their names:

[Quorum No. 9]

Armstrong	Graham	McConnell
Byrd	Inouye	Metzenbaum
Dixon	Johnston	Mitchell
Exon	McClure	

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

Mr. ARMSTRONG addressed the Chair.

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

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Yes, there is, Mr. President, an objection for reasons that I have already disclosed to the majority leader. I object.

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

The bill clerk resumed the call of 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.

The majority leader.

Mr. BYRD. Mr. President, at 3:45 p.m. today Secretary of State Shultz will be in room S-402 of the Capitol to discuss with Senators his recent trip to Moscow, and I would hope that—I do not want to stand in recess for an hour, but I would hope that debate could go forward during that hour so that certainly most Senators can attend the meeting with Mr. Shultz.

Mr. President, I thank the distinguished Senator for yielding, if he would like now to suggest the absence of a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk resumed the call of the roll.

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

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their name.

[QUORUM No. 9]

Domenici

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 on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. THURMOND] and the Senator from California [Mr. WILSON] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The result was announced—yeas 55, nays 36, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—55

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

NAYS—36

Armstrong	Hatfield	Packwood
Bond	Hecht	Pressler
Chafee	Heinz	Quayle
Cochran	Helms	Roth
Cohen	Humphrey	Rudman
D'Amato	Karnes	Simpson
Domenici	Kasten	Specter
Durenberger	Lugar	Symms
Evans	McCain	Trible
Garn	McConnell	Wallop
Grassley	Murkowski	Warner
Hatch	Nickles	Weicker

NOT VOTING—9

Biden	Gore	Kennedy
Danforth	Gramm	Thurmond
Dole	Hollings	Wilson

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question is on the amendment No. 1405, as modified. The yeas and nays have been ordered.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I was wondering if the majority leader was seeking recognition. It seemed to me that he was.

Mr. BYRD. No.

Mr. SIMPSON. He was not. Since the majority leader is not seeking recognition, we are back where we were before, which is an old location. And so we are ready to proceed. A quorum is present. And we have one of our Members who I believe wishes to speak.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I say to my friend from Wyoming, the acting minority leader, would he remain on the floor for a moment and on my time with me engage in a series of questions that I would like to ask him since he has been here and we have been having debate. I presume that this bill has been discussed, although I have heard most of it discussed on this side. Could I ask the Senator three or four questions just to see if I am right about what this——

The PRESIDING OFFICER. If the Senator from New Mexico will withhold, may we have the conversations off the floor.

The Senator from New Mexico.

Mr. SIMPSON. Mr. President, I believe the situation with regard to the floor is that I have the floor, and I, therefore, can accept questions from my colleague from New Mexico and I will surely do that.

I ask unanimous consent I be allowed to yield to him for a question, for a series of questions.

Mr. DOMENICI. Mr. President, could we have order, please?

The PRESIDING OFFICER. May the Chair once again ask Senators and their staffs to have their conversations off the floor.

The Senator from New Mexico.

Mr. DOMENICI. Now, Mr. President, let me preface my few questions to my good friend from Wyoming by saying that it has become very easy here in the Senate to, regardless of the issue, introduce a measure and if it is going to change something, we have a tendency to call it reform. I am not sure that this measure is reform, at least the one that is pending that you cannot amend because procedurally that is the position we are in. You cannot amend it. Because it appears to me that to be reform you ought to be rather sure that it is better than what you have, or if it is a process as important as electing U.S. Senators and Congressmen it is going to help the Democratic process work in America. And I believe on both scores from what I have read, the bill fails. I am not at all sure that other than some changes in the current law, it is reform in the context of making better, improving, whatever the synonyms are.

Now, let me see if a few questions and a few comments on my part for the next 40 minutes or an hour could at least make my point. I say to my friend, "Question No. 1," is it correct that the limit, current limit of $5,000 per year in PAC contributions is unchanged in the bill pending before us, the majority leader's version of what has become election reform?

Mr. SIMPSON. Mr. President, that is absolutely correct. The amount of PAC contribution limits, $5,000, is absolutely unchanged in this legislation.

Mr. DOMENICI. Now, let me proceed. Some have said, "If you do not like this measure"—I do not even like to call it reform—this measure, "what do you suggest?" Now, let me ask this: is it accurate that Senate bill 1308, the McConnell-Packwood bill, would eliminate PAC contributions to individual candidates and that Senate Bill 1672, the Dole bill would reduce PAC limits from $5,000 to $3,000?

Mr. SIMPSON. Mr. President, that is correct, with regard to the interpretation of both of those measures. They would limit PAC's.

Mr. DOMENICI. I thank my friend. Now, let me use my State as an example. It could be used by anyone, but let me ask the Senator, is this statement correct.

Let me assume that I have to run in a State which has the limit under this amendment that is pending that we cannot amend, which has the limit of $950,000, which is the case for New Mexico. Let me assume that I decided that I need to spend more than that limit to get my message effectively to the people, a right I have under the Constitution.

Let us also assume that our opponent for any number of reasons decides to abide by the limit.

I ask my friend from Wyoming: I spend $951,000 instead of $950,000. Is it accurate that my opponent, under section 504 of this bill, will receive a Treasury check equal to two-thirds of our State total allotment, namely $633,000, raising his or her spending limit to $1,583,000?

Mr. METZENBAUM. Mr. President, regular order, please.

The PRESIDING OFFICER. Will the Senator state his question?

Mr. METZENBAUM. The rules of the Senate permit a question to be asked of a fellow Senator but do not permit a speech to be made in connection therewith. I have no objection to any question that the Senator from New Mexico may want to ask the acting minority leader, but my understanding is that the questions are being phrased as speeches.

The PRESIDING OFFICER. The Senator from New Mexico was recognized after the Senator from Wyoming had yielded for a question.

Mr. SIMPSON. Mr. President, these are predicates for a question. That is a common procedure in this place.

The PRESIDING OFFICER. The Senator from New Mexico is recognized to ask a question.

Mr. DOMENICI. Mr. President, as a predicate to my next question, I will say that I am most appreciative of the rule of the Chair and that the Senator from New Mexico has a small amount of discretion as to how he asks questions. I thank the Chair.

The PRESIDING OFFICER. The Chair has ruled that the Senator from New Mexico is recognized to ask a question of the Senator from Wyoming.

Mr. DOMENICI. And now I ask my friend from Wyoming, let me assume that I decide under the same facts I just gave him a moment ago before the Senator from Ohio raised his question, and I now decide to spend one-third more than the $950,000 limit for a total of $1,267,000. Is it accurate that my opponent then receives an additional $315,000 from the Treasury of the United States, giving my opponent a total of $1,900,000 to spend, half of it provided by the taxpayers?

Mr. SIMPSON. Mr. President, that is absolutely correct. Those are the figures under the formula.

Before the inquiry of the Senator from Ohio, I did not fully respond to the previous question. His question previously posed is exactly correct as to what would happen if he received $1 over the $950,000.

Mr. DOMENICI. My fourth question is this, and it refers to the spending by independent groups. Let us talk about spending by an independent group that is supposed to be campaigning for me or against my opponent, because that is described in the bill, I say to my friend from Wyoming.

Even though I have no control over this spending or the content of such a campaign, is it accurate that under the amendment my opponent would receive in cash from the American taxpayers the value of the outside campaign which could be $1 million? Is that a source of great mischief? Does it concern you? I would ask you, what happens if that campaign that is supposed to be on my behalf, which I did not solicit, is really a sham created by people who want to help my opponent? What happens if they do not spend all the money they have obligated to spend, or what happens if they spend it in ways that are really detrimental to my campaign, "Vote for Domenici. He favors taxes communism. He favors taxes." The latter is one that some might use. It is a subject today. "He favors to balance the budget." That is the line. "Vote for him."

Would that aspect of the bill pending provide my opponent with an added benefit, double-barreled, half of it at the expense of the taxpayer resulting from an alleged favorable independent group?

Mr. SIMPSON. Mr. President, that is absolutely correct. That is rather a multiquestion, but, indeed, yes on the first part of it, that the opponent would receive in cash $1 million. The answer to the next part of it is yes, it would be great mischief. That is why we are insisting that it is. And as you have described, the campaign supposed to be on your behalf is a sham created by people who really want to help your opponent. That could happen. If they do not spend all the money they are obligated to spend, they could use it in some other form and use it in areas detrimental to your campaign. That is a double-barreled benefit, half of it at the expense of the taxpayer. Indeed, that is true.

Mr. DOMENICI. I have only one more question to ask and then I will use my own time if I am recognized and if it is appropriate.

Is it correct that under the amendment that is pending that a candidate can spend an additional two-thirds of his State limit on a primary campaign whether the primary campaign is serious or not?

Mr. SIMPSON. That is correct.

Mr. DOMENICI. I thank the distinguished acting Republican leader.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I believe the Senator from New Mexico, Mr. President, may have another question or two. I know these are not dilatory questions. I believe he has two or three more. I ask if that is correct.

Mr. DOMENICI. I certainly do. Let me proceed with them.

The PRESIDING OFFICER. The Senator from New Mexico is recog-

nized to further question the Senator from Wyoming.

Mr. DOMENICI. What limits are imposed by this amendment on soft money spending? Let me ask you, since you have been on the floor listening to the debate and you have been concerned with this legislation for a long time, is that not a major failing of this amendment, the fact that there are no limits imposed on soft money spending, if that is the answer?

Mr. SIMPSON. Mr. President, I submit to the Senator from New Mexico that is one of the prime grievances of this legislation. Indeed, that is correct.

Mr. DOMENICI. Is it accurate that the so-called minor party candidates, receive matching grants up to 50 percent of the State total, minor party candidates can receive matching up to 50 percent of the State total?

Mr. SIMPSON. That is exactly correct, Mr. President, without question.

Mr. DOMENICI. Might I ask my friend from Wyoming, does that present any constitutional issues, in your mind, as you think of that, how we are going to determine one set of candidates, because they are Republican or Democrat and thus perceived to be majority, and another group, because we set an arbitrary number of some kind, are minority, and we are only going to let them send half as much or furnish them with half as much tax dollars support?

Mr. SIMPSON. That is a very troubling aspect of the entire matter. That should trouble us all as part of this debate. It is one of the serious flaws.

Mr. DOMENICI. Mr. President, I thank my good friend from Wyoming for his responses and for his generosity in permitting me to ask these questions at this time.

It should be obvious, without a great deal of explanation, that if there is any doubt out there among anyone that there is a legitimate, bona fide reason to oppose this measure we have just stated at least six or seven, any of which could disturb a Senator, and he need not at all be against campaign reform. He could just conclude that that bill, as it is, unamendable, which is sitting at the desk, does not deserve to be supported in the name of reform.

I thank my friend and I yield the floor.

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

The PRESIDING OFFICER. If the Senator will suspend temporarily, no business has been transacted.

Mr. SIMPSON. Mr. President, the Chair ruled on a request of the Senator from Ohio and we transacted business. I insist upon that ruling.

The PRESIDING OFFICER. The Chair stands corrected. The Chair did rule on a point of order by the Senator from Ohio that it was business. The Senator from Wyoming is correct.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. EVANS. I object.

The PRESIDING OFFICER. Objection is heard from the Senator from Washington. The clerk will continue the call of the roll.

The bill clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that I be permitted to rescind the quorum call for 1 minute for the purpose of making a statement, after which I will yield the floor for any Senator to restore the quorum call.

The PRESIDING OFFICER. Is there objection? The Chair must rule that an additional request to suspend the call is not in order. The quorum call is in order.

Mr. EVANS. There is no request from a Senator.

The PRESIDING OFFICER. The clerk will resume the call of the roll.

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

[Quorum No. 10]

Boren	Dixon	Mikulski
Byrd	Evans	Simpson
DeConcini	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

The clerk will call the names of the absent Senators.

Mr. BYRD. Madam 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 on the motion.

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. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The yeas and nays were announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—51

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

NAYS—42

Armstrong	Hatfield	Pressler
Bond	Hecht	Quayle
Boschwitz	Heinz	Roth
Chafee	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Karnes	Specter
D'Amato	Kasten	Stafford
Danforth	Lugar	Stevens
Domenici	McCain	Symms
Durenberger	McClure	Trible
Evans	McConnell	Wallop
Garn	Murkowski	Warner
Grassley	Nickles	Weicker
Hatch	Packwood	Wilson

NOT VOTING—7

Biden	Gramm	Thurmond
Dole	Hollings	
Gore	Kennedy	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, we have had a good deal of discussion during the morning, as I have listened to it, about what the debate is all about. I think it is important that we return to the purposes for which we began this discussion. This discussion is not about all-night sessions; it is not about the loss of sleep; it is not about the motion to instruct——

Mr. BYRD. Madam President, may we have order in the Senate? A Senator is making an important statement, and I hope he will be listened to.

The PRESIDING OFFICER. The majority leader is correct.

Senators wishing to converse will please retire from the Chamber.

Mr. BOREN. I thank the Chair.

Madam President, as I was saying, the discussion of the last several hours might lead those who happened on to this discussion without hearing what came before to think that we were discussing whether or not we should have all-night sessions, discussing the virtues of getting more sleep, discussing the fine points of parliamentary motions, how motions to instruct the Sergeant at Arms to compel the attendance of absent Senators should appro-

priately be carried out or should not be carried out.

Madam President, that is not the issue we are discussing. What we are discussing here is really a very simple question, whether or not we shall have real reform of the way we finance campaigns in this country. That is the issue. And whether or not the Senate of the United States, a majority of whose Members have clearly indicated that they want to have an opportunity to vote for real campaign reform, will have that opportunity. That is what is happening here.

Fifty-two Senators signed on to a proposal, S. 2, to reform the campaign finance laws of this country. Fifty-five Senators, perhaps more, have indicated a desire to vote.

That is what this debate, this prolonged debate, is all about. If I might be more specific when I talk about what we mean by campaign finance reform. We have been negotiating, and as I have said before, negotiating in good faith, over the last several days. We are continuing to talk about, as far as this Senator is concerned, and we will continue to try to negotiate, to see if we can find a way to thread this needle, to find a way out of this impasse.

We have been able to reach agreement on a number of what I would call very important but, nonetheless, minor points when compared to the overall problem of what is happening with the way we finance campaigns in this country. We have had some agreement of what to do about millionaire candidates, about independent expenditures. We had partial agreements on what to do about the undue influence of special interest groups to finance campaigns.

But there is one single issue now confronting the Senate, and it is an issue that the American people should understand because the American people should be heard from on this issue. The issue is a very simple one, Madam President. The issue is this: Should we put some outer limits in place to stop the rapid escalation of campaign costs that have been going on in this country over the past two or three decades? Is it good for the U.S. Senate and, more important, is it good for the United States of America and our constitutional system that the cost of running for office in this country continues to go up and up with no limit in sight? Is it good for this country that the cost of running for the U.S. Senate in a successful race on the average in the last 10 years has gone up 300 percent.

It is good for this country where, on the average, it would take a sitting Senator to raise $2,000 every week of his or her term to raise the amount of money necessary to run for reelection? That was the case 10 years ago. It now requires, on the average, every Member of the U.S. Senate to raise at least $10,000 each and every week for 6 years that that Senator serves in the Senate. Over 300 weeks in a row, $10,000 every week for over 300 weeks just to raise the minimum amount of money necessary to run a successful race for the U.S. Senate.

Mr. STEVENS. Will the Senator yield?

Mr. BOREN. I will not yield at this time.

That is the issue that confronts the country. Do the American people believe that it is good for this country for that to be happening? Do the American people want their representation in the U.S. Senate to have the burden of raising $10,000 of campaign money each week, spending their time raising that money, going across the country to other States that they do not represent where the constituents do not live in order to raise that money, spending the time, raising the money, talking to contributors in other States instead of listening to the people back home? Is that what the American people want?

If the American people want that to continue to happen, if they want that figure to not be $10,000 a week, but $50,000, because that is where it is headed if you just use the trend over the last 10 years and project it forward, it is going to be $50,000 a week. It was $2,000 a week 10 years ago. It is $10,000 a week now. It will be $50,000 a week if the current trend continues at the same mathematical rate.

If that is what the people of the United States want, then they should applaud those who are preventing us from having a chance to vote on this bill because that is the one unresolved issue. That is the one thing, the only thing, that the people who are opposing this effort say is not negotiable, it is not on the table, we will not even talk about putting a limit no matter how high the figure. The sky is the limit. We do not want anyone to say we cannot spend as much money, as hundreds of millions of dollars, as we can raise to try to buy an office in this country.

Madam President, that is what this debate is all about, and it is time that the American people across this great country of ours woke up and realized what is happening because of the cancerous presence of too much money being pumped into the political system in this country.

Mr. STEVENS. Madam President, will the Senator yield at this point?

Mr. BOREN. Madam President, I would just like to complete my thought, and then I will be happy to yield.

I do not believe that is what the American people want, and if the American people ever had the opportunity to turn their attention to this issue, if the American people ever stopped to ask themselves, "How do we want this week to be spent by our representatives in the U.S. Senate?" I think they would say we want those Senators to be there grappling with the problems we face, problems of reducing the threat of war and conflict, the problems of getting productivity restored in our economy so we can do something about our trade imbalance, the problems of improving the educational standards and educational system so that our children will be better equipped to live in the complex world in which they are going to have to operate.

Madam President, I think they would say, "We want to have our Members of the U.S. Senate have the opportunity to come home so we can talk with them, so we can share with them the everyday problems that we have on our farm, the everyday problems we have running our small business, the everyday problems we have as a man or woman that works in a factory trying to save the money to buy the house or to educate our children."

That is what the people of the United States of America want. They want representation in the Congress that will work to grapple with the problems that affect them in their everyday lives. They want representation in the Congress that has time to listen to them and listen to their problems. They do not want the time of their Congressmen and Senators taken up instead raising money from other people and other places. They want to have the right to be heard from themselves.

And so it is extremely important. Public opinion polls have been taken. The Harris survey, for example, in 1983, and there has not been too much update, unfortunately, because we have not had enough attention paid to this in this country, and it is a tragedy, but we had a poll made in 1983. They made this statement:

"Candidates should be elected based upon how good they would be in office, not according to how rich they are or how many commercials they can put on television." Do you know what the American people said to that? Ninety-four percent agreed. Five percent disagreed. One percent were not sure.

And then this statement was made in the same survey: "The U.S. Supreme Court has ruled that there is no limit on the amount of money which an independent political committee can spend on behalf of a candidate. This has resulted in large amounts of money being spent on negative TV and radio commercials which attack the opponent of the candidate these groups favor. Do you feel that a strict limit ought to be put on the amount of money independent political commit-

tees can spend for a candidate or not?" Eighty-four percent agreed, favored strict limits, 13 percent disagreed.

And then they were asked, "Do you feel that excessive campaign spending is a very serious problem, only somewhat serious, or not a serious problem at all?" Sixty-two percent said very serious, Madam President, 29 percent said somewhat serious—that is a combination of 91 percent—and only 8 percent thought it was not a serious problem.

Madam President, if we will listen to our constituents, and it should not surprise us how they feel, they want us to compete in politics on the basis of issues and qualifications, not on the basis of who can raise the most money. They do not think this influx of millions and millions of dollars into campaigns is helpful to their ability to participate. In fact, they are concerned that it might be squeezing them out, that it might be squeezing out the average person, that it might be depriving them of time with their own representatives who have to go elsewhere, to other States to raise the money necessary. They are concerned by what is happening. And I am convinced if the attention of the American people could be focused upon this issue, we would find exactly what was found in these polls, that the overwhelming majority of the American people want to see something done about this problem. Madam President, that is what this is about.

Mr. STEVENS. Will the Senator yield at this point now?

Mr. BOREN. Just 1 moment. That is what this debate is about. Because we have talked about the other issues. I think we can find a way to reach some sort of agreements, agreements that would at least satisfy to some degree both sides on political action committees, and I do not underestimate the importance of that. It is important. We could find some ways to reach agreement on advertising rights, and that is important. That is not to be underestimated in terms of its support. We could find some way to reach agreement on a host of other issues, what millionaire candidates can do in terms of loaning money to their own campaigns and then going out to raise money to pay it off. All of these things are available, but, Madam President, we are not going to get the genie back in the bottle, we are not going to address the problem that the American people are concerned about, we are not going to address the problem that is at the heart of our political system, the integrity of the election process itself and the perception of that election process, until we find a way to do something to stop this rapid escalation in the cost of campaigns and campaign spending.

Madam President, I do not know whether we will find a way to thread through this needle right now or not. I do not know if we will find the magic formula in the next 2 or 3 days and nights. I hope we will. I want to say I honestly and sincerely—and I say this to my friends on the other side of the aisle; I am not making this statement for any political purpose or any rhetorical purpose or partisan purpose. I believe there are others on the other side of the aisle who are just as passionate and sincere about this problem as I am. I recall the days when Senator Goldwater, whose service in this body I greatly respect, was a Member of this institution. I remember the many hours we talked together on what was happening to campaigns in this country and how the cost of campaigns were absolutely out of control. And I think about our good friend JOHN STENNIS, the senior Senator from Mississippi, who served in this body longer than anyone else. And I understand the great concern that he has as he has announced his impending retirement to want to see something done to change the system because he loves this institution and he loves this country and he sees the problems that are going on.

Madam President, let me say if we do not deal with this problem, I do not know when it is going to happen, I do not know if it is going to be 1 year from now or 5 years from now, we are going to rue the day that we missed the opportunity, and the American people are going to call us to account, and when something happens that creates a scandal in this country—and one is bound to happen; it is a scandal waiting to happen; the amount of money that is sought and pumped into the political system at this point invites the greatest opportunities for the perception of public scandal and the loss of public confidence—when that happens and when the attention of the American people is finally fully engaged in this matter, they are going to look at each and every one of us and say, "Where were you? Why were you derelict in your duty? Why were you asleep at the switch? What did you do to try to stop the corrupting influence of this tidal wave of money that is pouring into the political system? What did you do about it? And when the next generation comes along and——

Mr. STEVENS. Will the Senator yield there?

Mr. BOREN. I will be happy to in a moment. I have to say to my good friend from Alaska——

Mr. STEVENS. I might say to my friend I have tried five times. I will speak later. I think the problem with this debate, Madam President, is the series of monologs and no willingness to really debate the problem.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BOREN. Madam President, this Senator was trying to get the floor earlier and was not even allowed to have the floor, so I think the Senator has the right, having listened to other people for 25 hours, I believe, as the principal authority of the bill to speak for about 15 minutes. I do not think that is an unreasonable request at all. And as my food friend from Alaska knows, I have not only been talking to him on the floor, I have been talking to him off the floor. He is a very valued Senator. I am sorry he has not stayed to listen to this. But he is a very valued Senator. His ideas on this pending matter are certainly respected by me. I am not trying to avoid engaging in a dialog with him. I want to listen to him just as I have been listening to the Senator from Kentucky both on and off the floor and the Republican leadership and many others because I know people here sincerely care about this. The Senator from Alaska is one.

But I am speaking because it is important, Madam President, that we engage a broader audience in this discussion. It is very hard to get professional politicians—that is a term not very much in vogue. None of us want to call us that in this day and time. I doubt that many people get to the U.S. Senate without some professional expertise in the field of politics, Madam President. it very hard to get professional politicians to set aside the impact that any change in the political system will have upon any of us individually. And I do not make this in a self-righteous way. I include myself in that comment. It is very hard for any of us to stand back and look at changes and reforms that need to be made in the political process in an objective way.

Madam President, there are some issues of the day that honestly cannot really be dealt with solely in terms of the feelings within this room or the impact that changes the system will have upon the people who sit in this Chamber. What we are debating today is not an issue that just affects sitting U.S. Senators. It affects every citizen of this country. It affects every person in this country who does not have the financial means to make huge contributions but still wants to participate in their election process. It affects every person, young or old, in this country who has an ideal to want to perform public service but does not have the means to raise hundreds of thousands, millions of dollars to have an opportunity to run no matter how qualified they might be or how good their ideas might be or how sincere their desire to serve the public.

Madam President, that is not right. It has an impact upon the next generation of this country that is going to be faced with almost an impossible sit-

uation regarding an ability to run for office unless they are persons of immense personal wealth.

It affects all of us in this country who are concerned about public confidence in their own government. It affects everybody in this country who is concerned about why people are dropping out of the political process and not voting in elections.

It affects all of us. It affects every person in this country. The American people need to begin to understand what it is doing to them, what it is doing to that farmer in the rural area of Oklahoma or South Dakota, what it is doing to that auto worker in Detroit, MI, what it is doing to that cotton planter in the delta of Mississippi, what it is doing to the cowboy in the State of Wyoming, what it is doing to that person who works in Silicon Valley in California, what it is doing to that retiree who has now gone to live in Arizona. It affects every single person in this country, Madam President, because it affects the basic building block of our whole form of government.

What was the cry of the colonists when they began the revolution which created this country? "No taxation without representation." We want a system of government. We want an election process that allows us to pick our own elected representatives to speak for us, people who know how we feel, people who will reflect our views, people who will speak for us.

What has really happened when almost 200 Members of Congress get more than half their campaign contributions from people outside their own home States and their home districts and they have to do that because it cost so much to run for office they have to go elsewhere to get it? Do the people back home in those home States, in those home districts really have grassroots representation? Do they have government decisions made by people who represent them? And why is it necessary? Because the cost of campaigns is so high the people cannot usually find the financial resources within their home States and districts to be on equal footing with the opposition.

So, Madam President, we are talking about fundamentals. The issue is very simple. If you feel that it is good for this country for the cost of campaigns to continue to skyrocket, if you think it would be good for this country if they went up another 500 percent, if you think if is good for this country that we spend our time raising money and panhandling for campaign funds instead of doing our job as Senators, representing and talking to our own constituents, then you should be on the side of those who want to prevent us from having the opportunity to vote for this bill. You should be on the side of those who say we are not even going to put that issue on the table.

Madam President, I am not saying that you have to be for S. 2 as it is now written to be for campaign reform. I would not say that at all. That would be a most arrogant statement, for me to say this bill is so perfect that if you are really for campaign reform you have to be for this and for nothing else. That is not what I am saying. I am saying we are willing to talk about modifying any provision in it. All we ask is that we have an indication from the opponents that they are willing to talk about some way to put some outer limits on the increasing costs of campaigns, which is a growing scandal in this country. That is all we ask. We do not say let us write it. We do not say let us pick what the limits will be. We do not say let us set the limits so we can get some partisan advantage. We just say join us in this noble cause to put some outer constraints on this runaway cost of campaigns before it absolutely cripples and destroys our political system.

Now, I close again with this, Madam President, and I apologize to my colleagues for talking their time. If we do not do it, mark my words, the next generation of Americans and the next generation after that are going to say, "Were you in the U.S. Senate when you had an opportunity to do something about this problem? Were you there when you had an opportunity to remove this cancer that is eating away at the political heart of this country? What did you do about this?" All I can say, Madam President, is I will say, "I tried to give us an opportunity to get a vote, to get this matter under consideration so we could not only vote on it but move to amend it and improve it, change it, have the conversations with those on the other side who did not agree with us on this particular bill and improve it."

Mr. RIEGLE. Will the Senator yield at this point?

Mr. BOREN. I will be happy to yield for a question.

Mr. RIEGLE. I thank the Senator for yielding. Let me, before posing the question, compliment the Senator from Oklahoma for his leadership on this issue. Clearly this is a major issue that confronts the country. As the Senator has said so well, if there are no limits at all we get into a situation where the whole process starts to break down. It breaks down in a way that is sometimes hard to understand, but it takes it further and further out of the reach of the citizens every day.

Let me ask the Senator this question. In my own race in Michigan—we are the eighth largest State, and I have been through that race twice before and am in the process of running again—in a State of our size, with about 9.5 million people, the cost of waging a Statewide campaign, the cost of television and everything else is now in the range of about $4 million. We raised pretty close to that figure in the last Statewide race of this scale. It could conceivably be higher this time.

One of the things we are noticing in our State is that the candidates running now, for the most part, tend to be self-described multimillionaires, and certainly they have a right to run. But the thing I am concerned about is that the pattern seems to be that unless a person has enormous personal wealth, particularly in the larger States, by and large they are finding it very difficult to run. On the other hand, those with great personal financial resources, who face no spending limits today, can spend as much of their own money as they wish. They are in a position to go ahead and run, and that tilts the process against the overwhelming majority of the American people.

So it seems to me the point that the Senator has made about the need to establish some reasonable limit—we can debate the limits, and in fact if we could get to a vote here, we could decide with our colleagues on the other side of the aisle where the limits go, and I am open to the question as to where those limits are established, but if we establish reasonable limits, then what we are doing is putting these races more on an even footing, on a fair footing. We are saying to a greater number of people in the political process that they have an opportunity to come forward and compete on an equitable basis.

I happen to favor, in addition to public financing, components such as we have in the Presidential race, and as we have in the race for Governor of my State, because they have proven to work very well. It opens the process to a greater number of prospective candidates that would like to run. If we could establish some reasonable limit on overall campaign spending and make it possible for a greater number of candidates who are not personally wealthy to be able to run and have effective campaigns and have a chance to run winning campaigns, we hold out the possibility of reinvigorating and continuing to invigorate our whole self-governing process.

The thing that worries me is that if we do not do that, if we continue to let this system become lopsided in the way that the Senator and I and others have described, we are going to find that the vast majority of the American people will not be able to run for public office. They will not be able to mount a competitive race for the U.S. Senate unless, as I say, they are wealthy or they are connnected to some kind of a fundraising apparatus, a party apparatus or others that shower enormous sums of money on them. That is just not right.

Mr. BOREN. I thank the Senator from Michigan for his comments. I certainly agree. I would express my agreement with him. That is the case. We are simply going to foreclose people from the political process. That is why I have been saying what I have been saying. I know that we have had these sessions that have gone into the night. I know there have been points scored back and forth, and there is the parliamentary process.

We have had heated debates. People can begin to say, "Well, let us forget it. Let us not try to work together any more. Let us not try to work out solutions."

That is why I appeal to those who have been opposing this bill. I appeal to them in all sincerity, as I did a while ago. It is not to try to score any political gain for myself or my party or anybody else out of this process. I appeal to them one more time to try to work with us, to work out a solution, so that we can work out an agreement.

This is a time of conflict, yes. It is a time when the strong and opposing views have been expressed, yes.

But it is also a time, Madame President, when we have brought this issue to a boil. It is my experience, and I am sure the experience of my colleagues around here, when that is a time, when the issue has been brought to a boiling point, when it has become the focus of national debate, when it is on the agenda for national discussion and discussion in the Senate, that is also a time of opportunity, a time for us to try to find a way to make some real progress.

I think it would be a shame and a tragedy, indeed, if we missed this opportunity now to make some real progress. I think it is close at hand. I think it is time to put everything on the table. That is all I would ask, that the other side say, "We are willing to put on the table the questions we want to discuss," some kind of limit that would restrain this runaway growth of campaign spending in the future.

I would ask the other side again, and I would appeal to them, to come to us with a proposal that they favor, and we will make absolutely sure that they are not put in any kind of partisan disadvantage. Come to us with a proposal that raises the limits in the States where they think it should be raised in order to ensure their ability to compete on a fair and equal basis.

I think they will find great willingness on this side of the aisle to not only look at it and fairly consider it but probably agree to it. I do not think we should have partisan advantage in this issue.

It is so important. Amidst all of this heated debate, the one thing that encourages me is that we are finally talking about this issue in the Senate. For year after year I have looked on with frustration while this issue was not part of the national agenda, while it was not considered important enough to talk about, where when you said to people something is wrong in the way we finance campaigns, people would say, "We are political realists. Do not tilt at windmills. You will not change it. It will stay the way it is. There is nothing you can do about it. It is the way it is."

We have come to that point, Madam President, after this matter has been placed on the national agenda and viewed by everybody, recognized by everybody on both sides of the aisle as a problem. There is something wrong with it that needs to be fixed. There is something badly wrong and gravely wrong, with which we have to deal. That is progress, Madam President.

We cannot begin to think about solving the problem until we realize the problem exists. We have indeed progressed that far in the course of that discussion of this matter in the body politic.

So progress has already occurred. We are much closer to the solution then we were a year ago or 5 years ago. Certainly, much closer to the solution than we were when Senator Goldwater and I first introduced our bill and were greeted with a resounding chorus of light laughter by those who thought we were embarked upon something that never would come to fruition.

It was an idealistic cause that no realistic person thought we would ever really try to do anything about. So we have come a long way already. We are on the brink of doing something of exceeding importance to this country and making a great contribution to the next generation concerning the integrity of our electoral system.

We are launching our lives together under the Constitution for the second 200 years in a way that will ensure the same vitality that guaranteed the first 200 years of our life for people under that great document. That is important.

Some people have said, "Well, with all important bills that come through here, why take the time on this?"

There are a lot of important bills—budget bills, farm bills, trade bills. But, Madam President, I think very few things are more important to our life as people than the preserving of the constitutional system itself. It enables us to continue under the framework by which we write the policies in all the other areas that affect us.

If we do not have confidence in our political system, confidence in this institution, the ability for this institution to work, we are not going to write the right energy policy, defense policy, foreign policies, farm policies, trade policies, or anything else.

So, Madam President, I again indicate our willingness, our willingness, to continue to work with, to continue to talk to, to continue to share thoughts with, to continue to try to deal in a creative way with those who have different views about the details of this legislation so that we can find a formula for doing something important for our country.

But it all boils down to this: for us to make progress at this point there must be a willingness to put on the table for discussion some way to put outer limits on campaign spending. That is the beginning of the debate right now; that is the end of the debate right now. That is the smallest unresolved issue and the unresolved issue. That is the unresolved issue.

We have seen a willingness on both sides to work out and make substantial progress on all the other issues. Now we have to deal with the main event. We have cleared the way for other matters and we have to find a way to deal with the most essential problem and that is the fact that spending on elections has gone out of sight and out of reason and must be brought back within bounds once again.

Again I apologize to my colleagues who have been waiting to speak. We are imposing upon their time. However, I felt it was important to again define the issue and to again indicate why this is not a matter of political games, why this is not a matter of partisan politics. Many of us on this floor, and I would say most of us on the floor, on both sides, of both parties, have it as a matter of great passion, of strong feelings because it is a matter of urgent importance. I think as long as we can respect each other and commit to continue to work together we can find a way to resolve the impasse with which we are now confronted. I thank the Chair and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, my friend from Oklahoma makes a very persuasive argument in support of real reform of the Federal election process.

Many of us in this body are strongly interested in bringing to the Senate various options for real reform of the Federal election process. But to hear the argument just made and to concentrate only on the provisions included in S. 2 would be to overlook some very important changes being suggested, changes I consider to be true reform and not mere efforts to perpetuate control of the Senate by the party controlling the Senate today.

Madam President, I am suggesting that Senate control by one party would be the result of the passage of S. 2. I say that for several reasons.

One reason was brought to my attention last summer when this matter

was on the floor of the Senate for discussion. I received a letter, and I think other Senators on this side of the aisle received the same letter, dated June 23, 1987, from Frank Fahrenkopf, chairman of the Republican National Committee.

I quote from that letter: "I strongly urge the Republican Members of the Senate to reject any compromise that includes expenditure limitations."

Notice the use of the words "expenditure limitations." That is what S. 2 contains.

Mr. Fahrenkopf also warned, "Such limitations could be lethal for the Republican Party's future."

I am not pretending to know whether that statement is true or false. I am not gifted enough to predict that as an outcome of the passage of S. 2. It is very clear, however, that the kinds of expenditures that are not limited and restricted in S. 2 benefit Democratic Party nominees in senatorial elections and in the Federal election campaign process generally.

(At this point Mr. DASCHLE assumed the chair.)

Mr. COCHRAN. The reason that is true is that there is no limit in S. 2 on the amount of money that can be spent in a campaign by organized labor unions who are spending money on behalf of a candidate in the election.

The bill restricts only the amount that can be spent by the principal election committee of the candidate himself.

Most Republican candidates raise money from private voluntary contributions of individual citizens. Most of the money for the senatorial campaigns for Republican candidates are in that form and they are financed by contributions in that form.

Many candidates on the other side of the aisle benefit from direct expenditures by organizations who are involved in the process but who are not covered by S. 2 as far as the amount of money they can spend is concerned; there are no limits on what those organizations can spend.

In the letter I just referred to, for instance, there is this sentence: "The 1984 Presidential election was publicly financed with an expenditure limitation," the same general kind of expenditure limitation that is contained in S. 2 for Senate races.

And the letter goes on to say, "But in 1984 labor unions spent $10 million in the primary campaign and $20 million in the general election for Mr. Mondale, expenditures which do not require disclosure under present law. Equal funding and equal expenditure limits were not equal."

That is the point, Mr. President, that is confounding the process here in the Senate today as we debate and discuss the issues involved in S. 2. We are being asked on the Republican side to cave in to the pressures of the majority, when to do so would legislate perpetual control of the Senate by the party that is now in power in the Senate.

I am convinced that is true and I think the evidence is very clear that is true.

So to hear the arguments advanced by some of the proponents of S. 2 that to adopt the bill presented to the Senate is really reform is not really hitting the nail on the head, Mr. President. It is true that it is change. It would be different under S. 2 than it is today. There would be sharp limitations and restrictions on expenditures of those funds raised from individual voluntary contributions from ordinary citizens. But there would be no restrictions whatsoever on the individual contribution limits of political action committees. There would be no restrictions on the amount that could be expended by independent organizations such as labor unions and others interested in the same cause as those pushing for the adoption of S. 2, that is, control of the U.S. Senate by the party that is now in the majority.

If we are going to have reform, Mr. President, it ought to be equitable to the extent that all contributions given and all expenditures made are disclosed as to both the source and the candidate benefited.

Now, that does not seem to be unreasonable, does it?

But that is not in S. 2. That is in the Republican alternative which emphasizes disclosure and calls for reduction in the contribution allowed by political action committees to individual companies.

It would be very difficult, however, to learn this by reading newspaper reports of the Senate on this issue. Some of the editorials around the country have given the clear impression that the Democrats are in favor of reform because they want to reduce the influence in Federal elections of political action committees. That has been the central theme of much of the writing about this issue.

But there is not one word in S. 2 that restricts by as much as a dollar the amount a political action committee can contribute to a campaign of a U.S. Senator.

On the other hand, the alternative legislation proposed by Senator STEVENS and others—Senator STEVENS is the ranking Republican member of the Rules Committee which has jurisdiction over the legislation—cuts in half the legal allowable amount that a political action committee can contribute to the election of a Senator. Under current law the limit is $5,000 per election. Under the Republican alternative reported in the Rules Committee the limit would be $2,500. There is no similar change offered by S. 2.

There is another Republican alternative that is being urged by the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Oregon [Mr. PACKWOOD], which completely eliminates political action committee contributions. That is a Republican alternative. If you relied only on the newspapers, however, you would not know that the alternative has been introduced, even though it is one of the principal vehicles for true reform before this body.

Instead, what do you read about?

Last year as we were engaged in this debate the majority leader came to the floor one day and put in the CONGRESSIONAL RECORD a stack of newspaper editorials from all over the country urging citizens in effect to put pressure on Senators urging them to support S. 2, because it would control political action committee contributions.

At that time, there was no provision in S. 2 that would deal with restricting those contributions.

It is interesting to look at the RECORD, Mr. President. I think the date was June 9, 1987. The majority leader presented for inclusion in the RECORD a number of editorials, and it was said by some who spoke that day and later that this indicated spontaneous support was developing around the country for the proposal before the Senate—public financing of Senate campaigns. That was the other theme of the legislation at that time.

Let us not let individuals choose whom they may support. Let us have the Federal Government parceling out money to candidates from the Treasury. It was the theme then that this would be a more wholesome and more equitable way to conduct the Federal election campaigns of U.S. Senators.

I looked through the RECORD to see what the newspaper writers were saying, and it was really interesting to see that so many of the editorials were just alike. Some even had the same title. Now I know there are newspaper chains, and it is not unusual for an editorial in one town to appear in a newspaper in that same chain in another city. And there are many chains like that around the country today.

But I doubt that all of these newspapers are in the same chain. Maybe they are.

Here is one of the first ones. It is on page S7795. It is entitled "Hedging Their Bets", and it was published in the Aiken, SC, Standard, dated March 30, 1987. The editorial starts off this way, Mr. President:

> Political action committees as fickle as fortune itself, know how to back a winner. According to a study released recently by the public-interest lobby Common Cause, dozens of PAC's involved in last year's U.S. Senate elections covered both sides.

And then the writer goes on to discuss that in more detail.

Looking on that same page, here is another editorial from the Anderson, IN, Daily Bulletin, dated March 30, 1987. The editorial is entitled "Hedging Bets." It starts off:

Political action committees, as fickle as fortune itself, know how to back a winner.

And then on and on virtually the same editorial.

I thought that was an interesting coincidence.

Here are papers published on the same day, one in South Carolina, one in Indiana, with almost exactly the same editorials except one has the title "Hedging Bets," the other "Hedging Their Bets."

And then I kept going and I thought I came across a new editorial. Here was one published in Athens, GA, in the Messenger, dated March 17, 1987. The title of this editorial is "Rein in the PAC's—Reform Bill Offers Way to Curb Fundraising Abuses." It starts off this way:

Fourteen Senators elected in 1986 raised more than $1 million each in political action committee, or PAC, contributions for their Senate campaigns. That more than doubled the number of PAC millionaires in the Senate from 10 to 24. PAC candidates in 1985-86 totaled $45.7 million.

Then I happen to notice on the same page in the RECORD are two other editorials, one from the Anderson, IN, Daily Bulletin—remember it?—entitled "Rein In The PAC's," dated March 19, 1987. It begins in basically the same way as the editorial that just preceded it from the State of Georgia.

The next editorial is from the Alpena, MI, News, dated March 31, 1987. It, like the editorials that I first read is talking about PAC's hedging their bets.

As you turn through here you come across others that are just exactly alike or very similar to the previous editorials.

Here is one from the Illinois Star Daily of Beardstown, IL, talking about political committees being fickle as fortune itself. Here is another one entitled "Rein in the PAC's," from the Courier News of Bridgewater, NJ.

What we see through here are basically two editorials, obviously not written by the same editorial writer working every day for each of those papers.

The Southside Idaho Press of Burley, ID: "Fourteen Senators elected in 1986 raised more than $1 million each in political action committee."

Well, you go through the editorials, and many of them are just like that, and you get to the end and it says "What we have now is a mess. The Boren-Byrd measure could be a way out."

Well, you know the tragedy of all this is that these editorials were suggesting that the Byrd-Boren bill had provisions that would restrict the contributions made by these political action committees described in the editorials as being the root of the evil in the process. The fact then as now, however, is that S. 2 does not reduce the legal limit of an individual political action contribution in a Senate race. Republicans have that in their bill, but that fact is not found anywhere in their entire stack of editorials, supposedly written by folks who have looked at the subject and are competent to explain to readers of their newspapers the issues of campaign reform.

I am not pretending to know how these editorials came to be published by these papers, who wrote them, or who continues to push on to the public inaccurate statements about this issue. Did you hear the distinguished Senator from Oklahoma talking about how Barry Goldwater and he had developed this legislation and had introduced it? And did you see in the newspapers in Arizona the ads purchased by Common Cause that discussed Senator Goldwater's support for the Byrd-Boren bill and criticized JOHN MCCAIN, the Senator from Arizona, who is urging that a Republican alternative be adopted? Did you know about that? Everybody pretty well knows about that here in the Senate now. Some people around the country are being told that Senator Goldwater supports S. 2. I happen to have had the privilege of being with him out in Colorado soon after the debate got going last year.

LARRY PRESSLER and I, the Senator from South Dakota, served together on the board of the U.S. Air Force Academy. We were talking about that at lunch. He said he did not realize that S. 2 had been converted into a public financing bill. And at that time the central theme being pushed by the proponents was that we were going to go into the Federal Treasury and allocate money to candidates. Well, Senator Goldwater wrote a letter to LARRY PRESSLER. I have a copy here. He sent a copy to TED STEVENS clarifying his position.

Mr. President, I ask unanimous consent to put in the RECORD a copy of the letter from Senator LARRY PRESSLER to me enclosing a copy of former Senator Barry Goldwater's letter on this subject.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, September 1, 1987.

HON. THAD COCHRAN,
U.S. Senate, Washington, DC.

DEAR THAD: Recently I had the opportunity to visit with our distinguished former colleague, Barry Goldwater, while I was attending the U.S. Air Force Academy Board of Visitors meeting in Colorado Springs.

During our visit we discussed campaign reform legislation. You will recall that during prior debate on this issue some confusion evolved regarding Senator Goldwater's support of S. 2. Following up on my visit with Senator Goldwater, I received the enclosed letter from him, in which he states his position on this proposal. As you will see, Senator Goldwater states in his letter that he cannot go along with federal government financing in part, or all, of campaigns. As he requested, I did insert his letter into the Congressional Record on August 7th.

In order to clarify Senator Goldwater's position on S. 2, I wanted to share his letter with you.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

BARRY GOLDWATER,
Scottsdale, AZ, August 4, 1987.

HON. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR LARRY: At the Air Force Academy, this last weekend, you told me you had not received a letter from me relative to my position on what was once the Boren-Goldwater Bill.

This letter will explain my position. I was very happy to cosponsor Senator Boren's Legislation, but when he introduced federal support, at any level, or any amount, I just could not go along with it. One of the surest ways that I know of to raise havoc with our election system, federal or local, would be to have the federal government finance part, or all, of campaigns.

I would appreciate your putting my position in the Record, so that my friends, who think I still support the Boren-Byrd approach, can be properly informed, and act accordingly.

It was great seeing you at the meeting the other day. That was a good turnout, and I think we did a lot of good.

With best wishes,

BARRY GOLDWATER.

Mr. COCHRAN. What is clear from this correspondence, Mr. President, is that Senator Goldwater is his words says:

I was very happy to cosponsor Senator BOREN's legislation but when he introduced Federal support at any level or in any amount, I just could not go along with it. One of the surest ways that I know of to raise havoc with our election system, Federal or local, would be to have the Federal Government finance part or all of campaigns. I would appreciate your putting my position in the RECORD so that my friends who think I still support the Boren-Byrd approach can be properly informed and act accordingly.

In spite of Senator Goldwater's very clear statement disavowing support for the measure before the Senate, we continue to hear that he supports S. 2. It was just stated. It is being promulgated in newspaper ads around the country, at least in the State of Arizona, creating the impression that the sitting Republican Senator from Arizona is in conflict with his predecessor, the former Senator Barry Goldwater, on this issue.

I think it is instructive, Mr. President, in trying to determine where the emphasis is for real reform, to look at the views that were published in the

committee report attributed to most of the minority members who sit on the Committee on Rules and Administration.

They looked at the comparison of the legal limits of individual contributions versus PAC contributions and tried to decide, is there a need to change the balance? Is there too much political action committee involvement in election campaigns? If so, what do you do about it? It was noted in the report, and I am reading from page 73 of Report 100-58, Calendar No. 128:

Under the Federal Election Campaign Act, as amended, individuals may contribute up to $1,000 in a primary, and an additional $1,000 in a general election to a candidate for election to Congress. This limit was set in 1974, and has never been raised despite the erosion caused by inflation over the intervening 13 years. Political action committees on the other hand have been allowed to contribute up to $5,000 per election to a congressional candidate. This figure was also set in 1974, and has never been altered. We propose that these specific limits be amended with the individual limit being raised from $1,000 to $1,500 per election and the PAC limit being lowered from $5,000 to $2,500 per election. Changing the mix of contribution limits will result in congressional candidates becoming more inclined to rely on individuals and less inclined to rely on PAC's to fund their campaigns. We believe that altering the contribution mix so as to increase the value of an individual's contribution and decrease the value of a political action committee contribution will cause candidates for Congress to return to the historic source of their funding and will curtail to some degree the influence of political action committees. Reorienting congressional campaigns back to individual contributors is a goal shared by all Senators.

Well, obviously those who signed and subscribed to those views were wrong about one thing; that is, that reorienting congressional campaigns back to individual contributors is a goal shared by all Senators. We have found out in debate on this bill that that is not true, that rather than do anything about reducing the amount a political action committee can contribute to a campaign, the proponents of S. 2 are arguing against making any change there. They are instead urging us to change the law to impose a limit on the expenditure of those funds as well as individual contributions so that we have a cap on overall spending.

Now, that cap on overall spending is only applicable to the campaign committee of the candidate. This is where the problem comes with that expenditure limit. It would not apply to any organization or other committee that expends money in behalf of that same candidate. If it is a national organization, for instance, that has picked out several races around the country and they have decided to use the resources by hiring telephone bank operators, people who are going to make phone calls to citizens to help get them to go to the polls that day to vote for a specific candidate, if they want to spend in a Senate campaign $100,000 or $500,000 in a State for that purpose, under current law, as I understand it, those efforts not even have to be reported. And under S. 2 there will be no expenditure limit for that contribution or that expenditure to the election campaign for that Senate candidate.

Now, that is the problem, because in Senate campaign after campaign we have seen more and more organizations outside the control and outside the structure of the candidate campaign committees become involved to the extent that they are hiring telephone bank operators, recruiting people to go door-to-door, handing out campaign literature, working at the polls, buying time at the local radio station to advertise against one candidate or on behalf of another. These expenditures would not be restricted under S. 2.

If S. 2 were to pass, I believe that we would see even more of these independent groups not answerable to a candidate, but involved nonetheless just as vigorously as if they were in a candidate's own organization, trying to influence the outcome of elections, and spending whatever they cared to spend from whatever source while the candidate himself would be strictly limited by the S. 2 cap on what the candidate himself raise from individual voluntary contributors. That is the problem, Mr. President. And that is a big problem.

More and more we are finding that organizations that are nationwide, some of them labor unions, some not, are getting very actively involved in the political process to help Democratic candidates. And they have been very successful.

So if you have as your cause, if you have as your goal the perpetuation of control of the United States Senate by the Democratic Party, then you will support S. 2 because that is what you get if you enact S. 2.

One other thing that I think you would get would be the development of independent organizations on both sides of the political aisle, with the practical result, if not the avowed purpose, of getting around the spending limits. If your campaign committee were restricted by law, but you were not restricted to the benefit you could obtain outside that structure from other organizations, your supporters might be tempted to encourage the development of those organizations in the hope that they might support your campaign.

The final result would be more support, more advertising, more help on election day in behalf of your campaign.

I have a suggestion for an alternative that is probably not new, but it occurred to me when I was a candidate for reelection to the Senate in 1984. I was about halfway through the campaign, maybe it was in April or May or June, I have forgotten, but it seemed to me it was over in the middle of the election year and I happened to notice that in Canada they had dissolved Parliament and they were having parliamentary elections. All the members of Parliament had to stand for reelection; Brian Mulroney was reelected Prime Minister. And all of that occured in a period of time that was about 6 weeks. And I thought: Is that not an interesting difference in their system from ours?

Our campaign in Mississippi that year had begun in February, I believe. Election day, as we all know, is in November. And, as a candidate in the race, I was looking to the necessity of having to campaign almost the entire year. And I thought: Would that not be a nice change if we could somehow limit the amount of time in which our campaigns were conducted?

And I thought about the debate that was then going on in the Senate about capping expenditures, turning to the Federal Treasury for campaign money, other changes that were being urged by those who were supporting Byrd-Boren. I thought that shortening campaigns might be an answer.

I do not know how we would do it. When I asked the Congressional Research Service of the Library of Congress to look into the constitutionality of such a statutory change, I was told it would probably require more than a statute, maybe a constitutional amendment. But I think we ought to look at that and think about it. Do we spend as much money as we do in the campaigns because we want to or we like to? Who decides really when to start? Every year campaigns are beginning earlier and earlier and earlier.

Look at this year. Candidates for the Presidency were advertising their candidacies on radio and television in 1987 in Iowa and in New Hampshire, maybe South Dakota, for an election that is really going to be held in November 1988. And just look here in our own body. I know of Senators who are up for reelection this year with an election date in November who have already begun advertising their campaigns for reelection on television in their home States. I am not criticizing that.

I am just wondering: Would it not save an awful lot of money if we had a rule or a law that prohibited the advertising of one's candidacy until 90 days before the election or some other period of time before a primary election or a convention or a caucus or a general election? I would suppose, without having any proof of it, that that would save a lot of money. And I am talking about restricting all advertising. But the Congressional Research Service, as I point out, says that we

might have to ask that the Constitution be amended to get that change made.

But, nonetheless, I recall when we were debating the matter last summer, we were required, if we had an amendment to S. 2, to file it, have it printed in the RECORD, or we would not be able to offer it. We had been foreclosed under the rules of the Senate from offering an amendment unless our amendments were printed in the RECORD on a certain day. Do you remember that? And so, I filed my amendment and it was printed in the RECORD.

Another reason why we are resisting cloture, Mr. President, is that other potentially good amendments cannot be offered on S. 2 if cloture is invoked. Under the rules as I understand them, an amendment that I might offer to change the legal limit of a contribution to a Senate campaign by a political action committee would be out of order.

I read from the committee report the minority suggestion of Senator Stevens and others that the individual contribution limit be increased to $1,500 and that the political action committee limit be reduced to $2,500.

I personally think they ought to be the same. Now that is just my personal view. I urged that when some were exchanging ideas about what ought to be in this bill and my view was not included. But I still have that opinion.

If you are concerned about the extraordinary amount of influence in the process by political action committees, why not just make the contributions the same, limiting both PAC's and individuals to the same amount in an election? That would certainly increase the value to a candidate of individual contributions as compared with PAC contributions.

Now, as I pointed out a moment ago reading from the report, the legal limit in an election campaign is $5,000 from a PAC. A PAC can give $5,000 in a primary election and then, if you win the primary and you are in the general, they can give you another $5,000, bringing the total legal contribution from that PAC in that election cycle up to $10,000. For individuals, under the current law, you can get only $2,000.

If I wanted to offer that amendment after cloture is invoked, it would be out of order.

Now I am asking you: Is that fair? Is that the way the Senate should conduct its business, shutting off the right of Senators to offer certain kinds of amendments?

And they wonder why the Republicans are resisting the cloture effort by the majority leader. They wonder why we are trying to explain that there are two sides to this story and only one side is getting out. One side is being told by the editorial writers, one side is being advertised in paid advertisements in newspapers, albeit inaccurately, and the other side is not getting out. Now it may very well be that some organization ought to advertise the other side. I do not know if that is the answer.

I think one answer, though, is simply to continue to try to tell the story and to give the full facts to the American people on the floor of the Senate by discussing why we would like to have some amendments to S. 2 considered; why we would like to have an alternative at least considered. But, no, the vote will be on S. 2 and on amendments to S. 2 that are considered appropriate and in order by the majority under the rules of the Senate that restrict some amendments from being considered or offered.

We also have to recognize that the Republicans are outnumbered in this body right now. Is it not interesting that since 1980, we have had the Senate tied up on this issue only now, only in 1987, when those in the majority now want to perpetuate the majority by the adoption of this bill?

Now, it has been urged as an alternative in various forms for a good while—everybody has their own ideas about how to change this process and improve it. I think it is in need of reform. I think it ought to be changed.

I just mentioned one of the suggestions that this Senator has personally. Let us make the PAC contributions and the individual contributions the same in terms of the legal amount that can be contributed in each campaign. I think that would deemphasize PAC's and it would increase the value of the individual activity and support in a Senate campaign. I think that has value.

I think we ought to consider figuring out a way to shorten the time in which campaigns can be conducted. If you think about it from this standpoint, I think the American people get tired of election campaigns. I do not really think that they enjoy the drumbeat of advertisements, of campaign speeches, of media events all over the country in either the Presidential election campaigns or Senate and House campaigns. I do not see why we cannot turn our attention to focusing on that means of reform and see if we cannot work out a way to change the laws in that respect. I think that would be an important change that we should consider.

The Senator from Oklahoma, in his discussion, talked about how wealthy candidates are benefited under the current system. And they are. If you happen to be a very wealthy person, you have a clear advantage over someone who is not.

Do you know that the Republican alternative has a provision that is designed to deal with that imbalance to try to make it a more level playing field—to use a worn-out cliche, for which I apologize—but the Democratic alternative, S. 2, does not? And that is a big loophole. And the Senate has wrestled with that and has had a hard time coming up with a constitutionally acceptable change in the law.

The Supreme Court, in the case of Buckley versus Valeo, made a ruling that to inhibit or restrict by law a person's own right to contribute to a campaign in his own behalf is an unlawful restriction of his right to free speech. And so we have a problem that we must deal with in designing a change in current law to try to even up the imbalance that now exists between the power of a wealthy individual in a campaign against one who is not.

That is just another example, Mr. President, of the difference between these two bills, these two versions of election reform legislation before the Senate.

What I think we need to have understood today is that it is not just Democrats who want reform. Republicans want reform, too. And a great amount of effort and hard work and thought have gone into the development of alternatives that have been before this body for the last year-and-a-half.

I hope, Mr. President, as we continue to discuss the issue, that we explain to the American people that there are two sides to the story and that it is time that the other side be told.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, a number of us feel that this whole process has gone on long enough. Periodically, for the last 8 or 10 months, we have been debating or debating around S. 2, the bill providing for public financing of campaigns and making other changes in the Federal election law. And, as was pointed out I think very ably by my colleague from Mississippi, we have been debating only a very narrow part of this overall process. There are alternatives. There is more than just S. 2. There are Republican positive, constructive alternatives, and yet we have been debating a very narrow set of issues, simply around one particular bill, and we are in the process of debating, now, all sorts of different sides of this bill.

Actually, through this all, one thing has become clear. Mr. President, the Senate is not going to pass this bill, S. 2. The body is not the House of Represenatives. It is not governed by a simple majority rule. Controversial legislation in this body, in the Senate, cannot be casually debated and shouted through as it can in the other body.

The minority in the Senate cannot be treated as if it did not exist or as if its views deserve no consideration, as is sometimes the case in the other body. I do not think the legislative procedures of the other body, especially the

treatment of the minority, is anything that we ought to be trying to copy in the Senate, and I am, frankly, shocked and concerned that the leadership on the other side of the aisle appears to disagree with that basic premise and, instead, through a process of trying to force votes through clotures and through other efforts, are forcing something through rather than debating all of the sides of this issue and getting the balance and the deliberation that, in general, distinguishes this body, the United States Senate.

This business of sending out the Sergeant at Arms to break into Senators' offices in the middle of the night and physically dragging them to the floor to force them to vote against their will does more than subject this body to public ridicule; it does more than take up the Senate's time in a year where we have many vital pieces of legislation to act on. It really amounts, Mr. President, to a kind of childish and futile display of impatience with the rules and realities of the Senate and how we ought to be deliberating and working and compromising and coming up with constructive legislation.

There are some pieces of legislation favored by the majority that will not pass this body. That is the nature of the Senate. That is what the Senate is here for.

I want to make it clear that I am no fan of the current system of campaign financing. Senators have to spend far too much time raising money. They do have to make too great an effort, I believe, to stay in compliance with even the existing regulations, with the lawyers and the accountants and all the kinds of work that we must go through and that whole process of raising and spending and accounting for money takes away from time that Senators could spend on legislation and time that Senators could be spending serving in active constructive roles in a campaign.

If it were not that way, every unfair or foolish piece of legislation favored by any majority—not necessarily a Republican or a Democratic majority, any majority—could be railroaded through this body just as it sometimes is, as I said, in the House of Representatives.

To rail against this reality, against this fundamental aspect of the Senate's nature, just to make a partisan political point, because this bill is not going to pass, I think does discredit to the entire body. It is a discredit and it is an embarrassment.

Turning to the content of the legislation, the bill itself, we have to ask ourselves: Why are we doing all of this? It is not on behalf of historic legislation like the civil rights bill of 20 years ago. We are not standing up here deliberating and spending this time on issues like the Panama Canal Treaty or on arms control or the INF agreement which is coming before us. So what is the key issue? Why are we finding ourselves doing this? Why go through all this?

Well, one way of looking at it is that proponents of this bill, the majority in this body, are trying to establish another spending program and, in effect, that is what public financing is right now.

I can justify spending more money on some things to my constituents in Wisconsin. We may have to cut spending elsewhere to pay for spending increases, like for the spending increases that would be included in this legislation, and we might end up by cutting money for very, very important programs. It could be AIDS research, it could be the women's and children's programs, it could be targeted export assistance, it could be research on ways to protect our ground water; these are issues that the people of Wisconsin and the people of this country want us to be spending money on and, because of Gramm-Rudman and because of other restrictions and restraints, we do not have the money that we would like to be spending on these important issues and yet at the same time we have people who are trying to come here and pass a program that is going to be spending millions of dollars. And who will be the recipients of those millions of dollars? Us; the United States Senate; politicians, instead of AIDS research, targeted export assistance, ground water help and the other kinds of issues.

I cannot justify spending millions of dollars of my constituents' money to pay for my reelection campaign or the reelection campaigns of my fellow Senators. I cannot justify it because it violates a fundamental principle of our political system, that people should not be forced to contribute to candidates against their own will.

People should not be taxed in order to contribute to a candidate whose views and positions they might not support. People should not be required, through this system, to contribute to political candidates of either side, if they were to choose not to spend their money supporting the political process through contributions.

There are a large number of people who would prefer to just, simply vote and not be contributing money. This bill means that everyone through the tax system would be contributing money to politicians and Senators for their own reelections.

I had a lot of independents and Democrats in Wisconsin who contributed money to my last campaign and voted for me and supported me. They did it because they liked me and thought I was doing a good job and their help meant a lot to me but what is important is they contributed money to me out of their own free will. They were not forced, they were not taxed, they did not have their arms twisted, they were not conned to having that tax dollar used paying for someone that they did not see reelected. They made the choice.

There is nothing wrong with candidates for public office rising or falling on their own merits. That idea, I think, is central to our democracy. There is no reason that candidates who cannot generate support for their campaigns should be assisted in support by the taxpayers. One of the responsibilities of a candidate for public office, whether it is this Senate or the House or the common council or the assembly or any public office, one of the responsibilities for any candidate for any office is to be able to generate financial as well as voter support for their campaign. That is a job of the campaign and the candidate. That is not a job of the U.S. Government or the taxpayers.

There is no reason that candidates who can generate support should have their task made easier by the taxpayers and if we have got a group of people who have demonstrated over the past years that they can generate financial support, from individual people, it is the people who have gone through the last several election cycles because they have become more and more expensive and more and more difficult and the people who have made it here have been able to generate that kind of support.

We are in the process, now, of taking the group of candidates and incumbents who have already demonstrated the ability to raise money and asked the taxpayer, now, to come in and supplement even those amounts. I want to emphasize that point. Which candidates for public office have the greatest capacity to raise funds? Is it the unknown person who has never run for public office before? Obviously the candidates who occupy public offices already, the incumbents, are the candidates that have the greatest capacity to raise funds. In other words, S. 2 as is written right now does not help the outsiders. What it does is fatten up the war chests, the already fat war chests which incumbent Senators have been able to build up.

Which candidates get the greatest share of special interest contributions? Look at the facts. Especially in the House of Representatives but in our body as well, which candidates get the greatest share of special interest contributions? It is the incumbents in the House and in the Senate. That is one of the reasons why most incumbents are re-elected.

Which candidates already have the advantage of free publicity? Which candidates already have the advantage of Government-financed travel? Which candidates already have the ad-

vantage of the franking privilege? Again, it is the incumbents. This bill is saying: take all of those advantages and then tax the people of the United States of America in order to put more money into those advantages which incumbent politicians already have.

Public financing simply gives incumbents one more advantage, an extra leg up. The incumbents would not have to work as hard at finding the minimal support for their campaigns because the Government matches the money they raise with a check from the taxpayer.

Under S. 2, if a candidate accepted public money for his campaign, he would have to abide by the spending limits. Leave aside for the the moment the question of whether too much money is spent on political campaigns; all I would note in passing is that a substantial amount of the money that is spent is going to pay people whose main functions are accounting and legal questions having to do with the compliance with this complex group of laws that we have right now.

But the fact is that there are many cases in which the only way that a challenger would have a chance to defeat an incumbent Senator or an incumbent Congressman is by making a major effort to raise a lot of money, to raise more money than that incumbent raises. The point is that that franking privilege, that free mail is worth a certain amount of money and in order to match it, the challenger has to raise money to match the public funds. In order to match the travel back and forth to the district which an incumbent has, the challenger has to raise money to pay for that travel. The Government is financing that travel. Just to be even, the challenger has to raise more money than the incumbent U.S. Senator in every single one of the races in order to match off the benefits that are already being provided.

Yet, here we are in the process of adding still more to that advantage. I think, under S. 2 it will become nearly impossible for most challengers. People talk about it as an incumbent's bill, and it clearly is. Challengers that declined to abide by the spending limit, that is challengers who decided they had to raise more money in order to match the incumbent's already built-in advantages, those challengers who went over the spending limit specified in S. 2 would find their opponents given, first of all, the public funds that they were denied. So this is money on top of money, taxpayer dollars on top of taxpayer dollars. The incumbent opponent would also be guaranteed the lowest unit rate for television and radio advertising and special first- and third-class mail rates, guarantees denied to the challenger.

There are two exceptions to the rule that S. 2 would block challengers from outspending incumbents, and they are very, I think, interesting exceptions. The Senator from Mississippi alluded, I think, to one. This whole issue of wealthy candidates and how much money individual wealthy candidates can spend on their own campaigns, this issue involves the exception that I was referring to a moment ago. It involves candidates who can raise truly staggering amounts of money relative to the size of that State and with the limits on individual and PAC contributions that we now have, this really means candidates who are themselves very wealthy.

A Republican alternative is trying to deal with that issue.

The second exception to S. 2 involves cases where a challenger has available to him large numbers of people willing to work on his or her campaign. This can happen if a challenger is able to generate some kind of spontaneous enthusiasm among large numbers of people who decide for one reason to go to work for him or her on their own, and this does sometimes happen.

But much more common is the case of a challenger supported by outside groups and particularly by labor unions. Labor unions have a ready-made organization. They can organize their members. They are already organized and they can organize their members for volunteer work on a particular candidate's campaign. They can poll their members as to which candidate those members intend to vote for and then make sure that those members intending, vote for their union leadership's choice, get organized and get to the polls.

Labor unions, in fact, can make many so-called soft money contributions in many ways difficult to monitor.

Again, here is an issue that we are trying to deal with in our alternative dealing with not only the campaign contributions that are presently dealt with individual contributions and with PAC's but also with the so-called soft money, and our alternative discusses and addresses the problem of the soft money but labor unions can make the so-called soft money contributions many different ways and right now under present law most are difficult to monitor. They have that right under our system. There is nothing wrong with what they do, so long as union members are not coerced in supporting candidates they do not wish to support.

But the fact is labor unions, generally speaking, support Democratic candidates most of the time. And it is no coincidence that these kinds of contributions by labor unions are not effectively regulated by S. 2 and no approach is made to regulate them.

Our alternative does not deal with labor unions but with this local soft money group that is tying to address that problem and address it in a thoughtful and I believe a helpful way.

(At this point Mr. ROCKEFELLER assumed the chair.)

Mr. KASTEN. The bottom line is that a system already weighted heavily toward incumbents—and that is what we have got today—would be tilted still further in that direction by legislation which would mandate taxpayer financing of political campaigns.

And the biggest exception to the spending limits that go along with these taxpayer-financed campaigns would be major interest groups that work primarily for Democratic incumbents in most cases.

This is not just an incumbent protection bill. It is a bill that I believe would drastically shift the neutrality right through between the two parties that the present system has heavily in favor of the Democratic Party. I think it is wrong.

There are a number of important differences when people talk about S. 2 and Presidential election funding. Some have said on the floor that, "Heck, it works, it is wonderful and it works very, very well for the Presidential campaigns. Why don't we simply put the same system in place for the Senate campaigns?"

S. 2 proponents argue that the so-called success at the Presidential election funding means congressional public financing and spending limits will be successful.

This, Mr. President, is falacious.

As section 4 points out, the assumption that Presidential public funding and spending limits have been successful is arguable at best. Even if it were a success, I do not think it follows that a similar scheme would be successful for a Senate campaign. Presidential and Senate races are fundamentally different. The advisability of Presidential candidates is very, very high and clearly we have all seen that over the past few weeks as the primary season has begun. The campaigns of major Presidential candidates during the general election period had nearly 100 percent name identification and we are seeing close to that in some of the key public primary States already. Such statistics are a dream for most challengers to the U.S. Senate campaigns and especially to congressional campaigns. They simply do not have that kind of recognition. You simply cannot get that kind of name identification. You do not have that kind of visibility in newspapers, the television, or on the radio.

Presidential campaigns receive extensive news coverage in the print and broadcast media daily. This is not true for Senate campaigns. This is not true for House campaigns. Senate campaigns must achieve visibility through

personal campaigning by the candidates and importantly through paid advertising.

Paid communications are a principal informational mechanism in congressional campaigns to a much greater degree than they are in any Presidential campaigns.

As section 4 also points out, the quagmire of enforcement problems creating in the public violation in enforcement has actually increased the public system about the election process.

In fact, Presidential public financing has served to destroy direct public participation in campaigns, reducing the citizen's role to a kind of a passive watcher of the TV advertisements.

David Broder, a senior political analyst for the Washington Post, recently observed and I quote:

> There is a cost to public financing. Public financing of Presidential campaigns has meant a virtual shutdown of local headquarters financed by small contributions. Grassroots democracy has died.

There is another argument that is being worked through here having to do with undisclosed expenditures. Spending limits are premised on the fallacy that by limiting spending, they will reduce the money spent on campaigns. This also is wrong. This same amount of money is likely to be spent. It will just be spent on projects that will not count against the spending limits and in certain cases will not be reportable. In other words, soft money will proliferate.

Our Republican alternative recognizes that and tries to deal with that fact.

If we are going to look at spending, let us talk about the entire amount of money spent. A top priority of spending limits in effect will be ways to find help for the candidate that is not allocable against spending limits and is not reportable.

Is that good? Do we want to switch these Senate campaigns to the same kind of exercises that the Presidential campaigns are now going through? Do we want to end up in the position in order to avoid an Iowa limit, for example, certain people spent 1 night in Omaha, out of every 5 days. They can say they are in one State when they are in fact in another.

Do we want to have all the cars rented for Iowa campaigns be rented in Illinois so they be allocable to the Illinois campaign limits, not to the Iowa campaign limits?

Do we want to see what we have been doing in working around the limits in New Hampshire as people are working to spend money in surrounding States and end up virtually every candidate in one way or another running for President has serious FEC violations filed against him and in certain cases have been found to be in violation of the law?

That is where we are going if we start to take this Presidential system and move it into the Senate campaigns.

A top priority, as I said, of spending limits in effect will be simply spending more time to find ways around the spending limits and to find issues that are not reportable or expenditure that are not allowable. I do not think that is good.

If spending limits for candidates exist the impact of expenditures will be much greater.

Again one of the issues which we as Republicans are trying to address is how to work with these independent expenditures, particularly the negative ads that come on with little or no attribution to or by the candidate himself. If we start putting spending limits on our campaigns the impact of independent expenditures is likely to accelerate. The amount spent on elections again will not be reduced but if the candidates are limited in what they can spend themselves independent expenditures will become relatively more and more important.

The amount of money spent on independent expenditures will be a greater proportion of the electoral pie, if you will. We have got x numbers of dollars and see that independent group grow as we see the regular campaign being chopped back or limited.

The system is better off if the money that is going to be spent on elections, all of the money that is going to be spent on elections is challenged through candidates and parties rather than through special interest groups and particularly rather than through these independent expenditure groups which are specialized generally speaking in irresponsible, negative ads.

What we want to do is to see the system channeled through the campaign committees not a growing system that is working out here.

A leading study on the funding of Presidential campaigns has noted the following:

> The limitations upon expenditures have become increasingly restrictive and have spawned a whole series of serious problems of the definition, allocation and enforcement. On the other hand, the efforts to control total spending in Presidential races has not succeeded.

A further quote:

> The act has not succeeded in arresting the upward spiral in campaign spending, increases have come about therefore through conduits which are not under the control of the candidates although in some instances this spending may be coordinated with the campaign organization. Spending by labor unions and corporations for so-called internal communications is also outside of the candidates' direct control but ought to be at least part of this overall process.

We are not talking about simply limiting a campaign. We are talking about limiting the dollars spent in the process of electing public officials and if we just take and deal with one tiny bit of it as S. 2 does we do not solve the rest of the problem.

Moreover, if I go back to my quote now, "We cannot be sure if these expenditures are increasing since by and large they do not have to be reported to the FEC."

Those quotes are from a study entitled "Financing Presidential Campaigns, The Recommendations Of The Campaign Study Group" by a gentleman named Christopher Alderton.

Another argument that has been raised talks about the political process and how I believe the discussion has been twisted. S. 2 alone I think would hurt the political process, not help it. The reforms there being proposed I think would block true reforms that could come out of either this eight Senator committee that is supposed to be working even this afternoon they may be meeting, if we were to pass S. 2 I think we would block or hinder efforts for true reform in the future.

Spending limits damage the American political process as much as public financing. Money allows candidates to present their views to the voters. That should not be restricted by either spending limits or by public financing. It is especially important I believe that challenger candidates have enough money to become available to the public so they get their message across. Spending limits make that difficult. Spending limits in general would benefit the Democratic party. The Republicans can raise more money through Democrats through small grassroots contributions. This has been discussed last night, discussed again. Smaller contributions and a greater number at least so far is somethig that the Republican candidates in general have been able to do well at. The fact is that the Democrats as of right now have very few small donors among the American public they do have more larger donors and particularly in the House overrepresents significantly more special interest or PAC contributors than do the Republicans.

Spending limits are therefore the Democrats' way of overcoming their inability to raise money from average people who would like to contribute to campaigns. Spending limits would eliminate from the American political system the role of the small donors and help the other political party by not hurting their PAC groups and their special interest groups.

I said that if we were to pass S. 2 and I am certain that we will not, that we would block true reform. I believe that this bill would hurt our ability to look at the entire package. In other words, I believe that this would be difficult once we passed S. 2 for us to go back and to look at a comprehensive

bill which I think is what we need to do, a bill that would cover all of the bill that would cover all the spending.

For the purposes of making the point I ask unanimous consent that a list of both Republicans and Democrats 1988 incumbent Senators' PAC contributions listed from January 1, 1987 through June 30, 1987 be inserted in the RECORD at this point.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

1988 Incumbent Senators PAC contributions

[Jan. 1, 1987 through June 30, 1987]

Bentsen (D)	$1,128,770
Sasser (D)	444,580
Hatch (R)	426,211
Byrd (D)	410,330
Riegle (D)	370,615
Mitchell (D)	353,850
Lautenberg (D)	313,800
Bingaman (D)	304,737
Burdick (D)	275,952
Melcher (D)	248,238
Moynihan (D)	237,900
Heinz (R)	237,057
Danforth (R)	228,405
DeConcini (D)	227,050
Trible (R)	226,609
Metzenbaum (D)	209,285
Hecht (R)	193,950
Wilson (R)	190,050
Chafee (R)	168,550
Durenberger (R)	166,450
Roth (R)	166,276
Sarbanes (D)	158,750
Lugar (R)	147,590
Wallop (R)	140,716
Weicker (R)	118,813
Karnes (R)	48,600
Jeffords (R)	38,800
Matsunaga (D)	31,000
Kennedy (D)	28,300
Evans (R)	2,350
Chiles (D)	0
Stennis (D)	0
Democratic Senatorial Campaign Committee (Kerry)	573,967
National Republican Senatorial Committee (Boschwitz)	[1] 128,973

[1] Ninety-five percent from receipts from The President's Dinner

NOTE.—Democrat Total: $4,743,157 (65%)—average: $316,210 (15 candidates take PAC money). Republican Total: $2,500,427 (35%)—average of $166,695.

Mr. KASTEN. Mr. President, in making this point further I think it is important to recognize where we stand today in terms of the political action committees. It has always been the case in the House of Representatives in certain cases because the PAC's contribute to incumbents and there are more incumbents who are Democrats in the House of Representatives, in certain cases because the PAC's contribute to leadership and there are more Democrats in the leadership of obviously as chairman of the committees and subcommittees but the fact is that Democrats outstrip Republicans in PAC funds not only in the House of representatives but in the Senate as well.

There was an article recently by Brooks Jackson in the Wall Street Journal in which he pointed that out:

[From the Wall Street Journal, Aug. 18, 1987]

DEMOCRATS OUTSTRIP REPUBLICANS IN PAC FUNDS AS INCUMBENTS HOARD $94 MILLION in War Chests

Democratic House and Senate members have raised $12.6 million from political-action committees so far this year, nearly twice as much as the $6.4 million raised by Republican lawmakers, latest campaign-finance reports show.

The reports show also that incumbents have hoarded a record total of $94 million with which to scare off or defeat potential challengers. Democratic lawmakers hold 51% more campaign cash than Republicans.

The reports, filed by candidates with the Federal Election Commission, cover the first six months of the year. The FEC provided a computer-aided tabulation. Figures are preliminary; tardy and amended reports will be trickling in for weeks. But they provide the first substantially complete look at how incumbents are financing their 1988 re-election campaigns.

The money chase is accelerating even as the Senate continues a partisan debate over revising the campaign-finance laws. Democrats favor and Republicans so far refuse to accent legislation to limit spending by congressional candidates, and to restrict the totals that candidates may accept from PACs.

Such a bill, applying to Senate candidates, is being pushed strongly by Senate Majority Leader Robert Byrd (D., W.Va.) Despite weeks of debate and behind-the-scenes maneuvering, Sen. Byrd was unable to muster the 60 votes needed to break a Republican filibuster against the PAC-limit measure. The Senate will take it up again after Labor Day.

Meanwhile, Sen. Byrd has reported getting $410,329 from PACs, the fourth-highest total amount among Senators and more than double what his bill would allow. His special-interest money came mostly from labor unions, including gifts from the Teamsters, construction trades and various public employee unions.

BUSINESS SUPPORT FOR BYRD

But business interests gave heavily, too. A total of $20,000 came from two PACs representing Chicago-based commodity traders. The Association of Trial Lawyers of America, seeking to prevent limits on jury awards to plaintiffs, gave $10,000. Military contractors, insurance interests, energy and transportation companies gave thousands more through their political-action committees, political war chests fueled by individual contributions. Sen. Byrd's main money-raiser is a Washington lobbyist, Patrick Griffin, who until 1985 had been an aid to Mr. Byrd in the Senate. Mr. Griffin said Sen. Byrd plans to raise at least $2 million for his re-election.

The overwhelming amount of it will be from out of state," Mr. Griffin says. "West Virginia just cannot support it."

Another leading proponent of the spending-limit bill, Democratic Sen. George Mitchell of Maine, also exceeded the PAC limit he is proposing. He raised $353,850 from PACs, though the formula in this bill would limit Maine Senate candidates to $190,950.

Sen. Mitchell concedes that exceeding his own proposed limits opens him to "charges of inconsistency and hypocrisy," but says doing otherwise would be political suicide. "Unless all candidates are bound by the same rules, before long no senators supporting such limits will remain in office," he says.

The latest reports show that Democratic incumbents continue to be more dependent on special interest money than Republicans. Democratic senators got nearly 34% of their money from PACs during the first six months, compared with 28% for Republican senators. Democratic House members got 45% from PACs compared with 42% for GOP House members.

BENTSEN LEAD ALL OTHERS

In fact, a Democratic senator easily outdistanced all others in PAC receipts for the period. Sen. Lloyd Bentsen of Texas, chairman of the Finance Committee where both tax and trade bills are written, reaped $1.1 million from PACs.

Sen. Bentsen suffered earlier this year from publicity about a "breakfast club" of lobbyists with whom he agreed to meet regularly over eggs and bacon, in return for $10,000 PAC donations. Sen. Bentsen admitted to "a doozy" of a mistake and refunded the money. But many of the same donors had given again by June 30, the last day covered by the latest reports.

Another Finance Committee member, GOP Majority Leader Robert Dole, raised PAC money this year in a variety of ways.

His presidential exploratory committee got $174,659 and his own political-action committee, Campaign America, got $189,454 from other PACs. Meanwhile, just to be safe, Sen. Dole also set up a "Dole for Senate '92" committee, which took in $5,570 from PACs.

Republican Sen. Orrin Hatch of Utah raised $426,211 from PACs, almost all of them sponsored by corporations or trade groups, the third-highest total of any senator. And House Republican Leader Robert Michel of Illinois raised $149,80 from PACs, placing third among House members.

Incumbents of both parties often raise money long before they have any real need for it, openly hoping to frighten away challengers. As of June 30, more than 17 months before election day, 10 House members reported more than $500,000 each, and 11 Senators reported $1 million or more.

DREIER LEADS IN CASH ON HAND

Republican Rep. David Dreier of California reported the highest total of cash on hand of any House member: $964,376. He has won his last two elections with more than 70% of the vote, and Congressional Quarterly's "Politics in America" yearbook says "he is about as safe as he can be" from any political challenge. Yet Rep. Dreier says he's planning another of his yearly California fund-raising events in September.

I think it's important to build and maintain a strong base of support, said Representative Dreier. "As a Boy Scout, I was always prepared."

But the point here is what we are seeing is a large number of incumbents, a large number of people, who already are piling in the money, and frankly we are also seeing some real problems in terms of the direction we want to go.

What are we going to do about these PAC's? What are we going to do about articles such as the one that I just read from, and what does S. 2 do about PAC's? What does S. 2 do to address the problems that I just outlined here citing examples from both sides of the

aisle? S. 2 fails to reduce the amount a PAC can contribute to a candidate for the Senate. Some people think that is not the case.

There was a paper in my home State of Wisconsin which thought we were in the process of limiting PAC contributions. They are wrong. S. 2. fails to reduce the amount of money a PAC can contribute to the candidate for the Senate. It simply limits the amount a candidate can receive in the aggregate from all political action committees.

S. 2 in no way reduces the perceived problem that a Member of Congress may be unduly influenced for a $5,000 fee. S. 2 would allow an individual PAC to give the same amount of money as under current law and thereby the same amount of influence under the logic of those who say we should be the main PAC's.

Republican proposals which limit the size of the contribution from a special interest to a candidate is a more direct way to deal with actual or apparent undue influence by a political action committee. The proponents of S. 2, the opponents of our Republican alternative, have projected this approach because, I believe, they recognize their candidates are more dependent upon large contributions from special interests than our Republican candidates.

In 1986 elections, Democratic Senate and House candidates received 55 percent of all contributions made by PAC's, compared to 45 percent for the Republican candidates. In addition, PAC contributions accounted for an average of 37 percent of the money raised by Democratic Senate and House candidates, 28 percent for Republican candidates.

So far in 1987, Democrats are raising nearly twice as much PAC money as Republican Senate candidates, as I pointed out in my article, and are making special interest money the centerpiece of a large number of their fundraising efforts.

Furthermore, S. 2 has to some degree the opposite effect from that which is desired. A PAC is a collection of individuals, political action committees, a collection of individuals with common goals and concerns who band together to better participate in our electoral process. More people now give through PAC's than through direct contributions.

In the 1984 cycle, almost 5 million people are estimated to have gotten involved through PAC's. We should encourage this involvement which is fully reportable and a matter of public record. S. 2 would limit this public participation by only allowing some PAC's to contribute to candidates. This would work to the advantage of some of the large powerful political action committee, PAC's, based in Washington. The grassroots PAC's without a Washington presence are the likely probable losers.

If the candidate is limited to what they can accept, those PAC's which have the information to move quickly would be the ones that would get to contribute and those would be the big power PAC's right here in Washington. It might not be S. 2's intent but it is a likely result.

For example, if the Senator knew he could raise only a limited amount of money from PAC's, total aggregate, he might do things a little bit differently. He would not have to bother with meeting with a whole number of PAC's across the country, going out into the grassroots where the smaller political action committees are and familiarizing himself with those issues, and those people. Instead, he would simply hold one big PAC event, one big night in Washington, and contribute to his campaign that night, the big ones would be there on a first come, first serve basis, and he would be up to his legal limit and his efforts of fundraising would be ended.

I think it is important to recognize that we simply are not doing what we say we intend to do. Complying with the provisions of S. 2 could be as difficult as complying with the Presidential campaign law. As I pointed out before, this has been very, very difficult. Listen to this account from the 1984 Mondale campaign.

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the campaign was over.

Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee's treasurer periodically meets with his lawyers and reviews documents passing to and from the Federal Election Commission.

Remember, this is 4 years after the day the Mondale campaign registered the first time with the Federal Election Commission, 26 months, over 2 years, after the campaign.

These three people (the authors of this article) plus a part-time controller and a part-time secretary are all that is left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Commission Act (FECA) is a workable solution to the admitted and potential problems which plague the area of the campaign financing. Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns "creative" efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

For those of us responsible for the campaign's compliance with the Federal Election Campaign Act of 1971, as amended,[1] the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaigns.

A BROAD RANGE OF ISSUES

A broad range of legal issues arises throughout the course of a presidential campaign. While the primary emphasis is on election laws, there are a number of other legal matters that also require attention; for example, tort liability, contracts, equal employment opportunity laws, corporate law, copyright questions and communications law. These problems range from weighty legal questions to those that sound more like the script of a television sitcom.

For example, during 1984, Mondale staffers and volunteers backed a rented truck into a cathedral in San Francisco, damaging both; clipped a wing off an airplane with another truck; broadsided a cow with a rental car (the cow was held liable); and drove another rental car the wrong way down a one way street into an oncoming fire engine with its siren on and lights flashing. A routine day also included a request for permission to market a "Gerry" wig.

With such a range of legal problems, it is important for a campaign treasurer and the campaign's counsel to find as much volunteer legal help as possible. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for telephone consultations and an occasional meeting.

When the campaign is in full swing, in-house lawyers and campaign managers can easily lose perspective. Invaluable to use were two seasoned practioners who were there to reason with or pitch in during times of crisis.

Mr. President, I would like to at this point ask unanimous consent to have this article by Lyn Oliphant, Pat Fiori, and Michael Berman, which appeared in the Federal Bar News & Journal entitled "Counseling a Presidential Campaign" appear in the RECORD at this point.

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

[From the Federal Bar News & Journal, February 1987]

COUNSELING A PRESIDENTIAL CAMPAIGN

(By Lyn Oliphant, Pat Fiori, and Michael S. Berman)

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the campaign was over.

Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee's treasurer periodically meets with his lawyers and reviews documents passing to and from the Federal Election Commission. These three people (the authors of this article) plus a part-time controller and a part-time secretary are all that is left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Commission Act (FECA) is a workable solution to the admitted and potential problems which plague the area of the campaign fi-

nancing. Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns "creative" efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

For those of us responsible for the campaign's compliance with the Federal Election Campaign Act of 1971, as amended,[1] the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaigns.

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With such a range of legal problems, it is important for a campaign treasurer and the campaign's counsel to find as much volunteer legal help as possible. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for telephone consultations and an occasional meeting.

When the campaign is in full swing, in-house lawyers and campaign management can easily lose perspective. Invaluable to us were two seasoned practioners who were there to reason with or pitch in during times of crises.

One of the key questions confronting the treasurer is how to structure the internal campaign organization in order to facilitate compliance with the law. From a legal standpoint, the treasurer is the key person in the campaign because that person is responsible for FECA compliance.[2] The treasurer is, in essence, the client and, for this reason, the jobs of treasurer and counsel should never be filled by the same person.

A second key element in fostering compliance is a good accounting system. It should be in place before any financial activity occurs. Whether to maximize matching funds[3] or to stay within expenditure limits,[4] a solid accounting system is essential.

UNRESOLVED QUESTIONS

Campaign organizations tend to push the limits of permissible election finance activity. Practices and legal interpretations adopted in one presidential cycle become the new jumping off point for the next cycle, raising new questions concerning the reach of the federal election laws.

1.—Delegate committee

Frequently these new frontiers of campaign activity are the subject of FEC compliance actions, often when a candidate's opponent files a complaint. This happened to the Mondale campaign and the much-publicized delegate committees.[5] One of the central questions posed in that matter before the FEC concerned the permissibility of delegate committees engaging in the same activities as individual delegates under the FEC's delegate regulations.[6]

Under the regulations, delegates may make expenditures for grassroots activity such as the production of literature which advocates their own selection as delegates and also advocates the election of their candidate.[7] These expenditures are not considered contributions to the candidate, nor are they subject to the candidate's expenditure limit. The Commission had previously issued an advisory opinion interpreting the grassroots activity provision as applicable to individual delegates and delegate committees.[8] However, in this instance in considering the delegate committee complaint the FEC was unable to reach a consensus as to whether the activity of the Mondale delegate committee fell within the parameters of the regulation.

The issue was not resolved in this matter because the campaign entered into a conciliation agreement with the Commission.[9] In late 1986, the Commission considered proposed staff revisions [10] to the regulations intended to clarify this question, but it has never adopted a notice of proposed rulemaking. Thus it is entirely possible that the ambiguity of these delegate regulations will not be resolved before the next campaign counsel must render advice on this question.

2.—Redesignation of excessive contributions

Another issue that was resolved prior to the 1984 campaign and remains unresolved concerns the disposal of excessive contributions to the primary campaign.

Campaigns frequently receive aggregate contributions from an individual in excess of the $1,000 limit.[11] One option available to the campaign is to simply return the excess amount in a timely fashion.[12] This is not the most desirable course of action if there is some other lawful way in which the funds might be used by the campaign. A second option is to redesignate the excess amount to a general election compliance fund.

The FEC manual for publicly financed campaigns[13] published in 1983 does not address the question of what procedure a campaign must use to redesignate excessive primary contributions to the general election compliance fund. Unfortunately, the FEC did not resolve this question in its regulations in time for the 1984 campaign.

The issue is whether a campaign may simply notify a contributor that the excessive amount of his contribution is being redesignated by the campaign or whether the contributor must sign a form agreeing to the redesignation. Both options were used by different campaigns in 1984.

In our view the most sensible resolution is to permit redesignation with notice by the campaign, so long as the contributor is given a period of time to request a refund.

If the FEC fails to resolve this issue, campaigns might consider including language in the original solicitation and on the contributor card specifying how excessive contributions will be redesignated or allocated.

3.—Sources of funds for repayments and penalties

Neither the FECA nor the regulations make clear what funds can be used to make required payments of public funds.[14] The issue has been before the Commission on several occasions since 1976, yet remains unresolved.

In the aftermath of the 1984 campaign, the FEC took the position that repayments are neither qualified nor nonqualified campaign expenses.[15] Unless the Commission makes clear from what funds repayment may be made, candidates in 1988 will not know whether they will be able to make repayments from their regular campaign accounts, which include a mix of private and public funds.

The Commission has taken a clear position that civil penalties can only be paid publicly-funded campaigns from sources which do not include public funds.[16] Similarly, the Commission should take a position on the repayment question.

4.—Draft committees

Through no fault of the FEC, the status of draft committees remains unresolved.

Persons involved in the Draft Kennedy movement prior to the 1980 presidential campaign refused to comply with subpoenas issued by the FEC on the grounds that the activity of the draft committees was beyond the purview of the FECA.[17] Meanwhile, the Congress made a minor change in the FECA's reporting requirements. The federal appellate courts confirmed the lower court decisions and interpreted the change in the law as subjecting draft committees to the reporting requirements but not the contribution limits.[18]

Congress, despite the FEC's repeated recommendations,[19] has not chosen to take further action, leaving the FEC essentially powerless to extend its control over draft committees.

CURRENT STATUTORY AND REGULATORY DILEMMAS

In certain respects the FECA was not designed nor has it been modified to deal with the passage of time. Certain of the regulations adopted by the FEC seem to deny the realities of modern-day campaigns, while others beg for a rationale. The net results is that the law has become substantially more burdensome than it needs to be to meet its overriding goals.

1.—Contributions limits

The FECA limits contributions by individuals to $1,000 per election.[20] Had the contribution limits been indexed in the same manner as the expenditure limits, the individual limit in 1984 would have been more than $2,000. Fund raising is no longer a test of viability, it is a test of stamina. Candidates are forced to divert attention from issues and campaigning to raising money.

Because of the limits, potential candidates for president have turned to vehicles other than campaign committees to finance activity at the very early stages. First, it was the creation of independent multi-candidate political action committees (PAC's), which may accept $5,000 per year from individuals.[21] PAC expenditures do not count against any limit. Now, it is the organization of think tanks, which are tax-exempt, tax-deductible foundations.

The FECA does not serve its goals, and the real public interest does not benefit, when unrealistically low limits cause candidates to wear themselves out with fund raising and finding new vehicles to attract and

Footnotes at end of article.

spend money. Respect for the law and confidence in the integrity of campaigns is in no way enhanced by these activities.

If we are not careful, over time the FECA will go the route of all those campaign finance laws which preceded it.

2.—Primary matching funds

Under the Presidential Primary Matching Payment Account Act,[22] a candidate seeking nomination by a political party may opt to accept public funding to match contributions which the candidate raises privately. After meeting certain threshold requirements, private contributions are matched with public funds up to the first $250 received from each individual, up to an aggregate amount equal to one-half of the expenditure limit.[23] The $250 matching amount has not increased since the 1976 campaign. The amount of matching funds the candidate may receive has doubled.[24]

Currently, contributions cannot be matched unless they are made and received after January 1 of the year before the election and before December 31 of the election year.[25] No matching funds are distributed to candidates until after January 1 of the election year.[26]

Presidential candidates should not be constrained by the campaign finance laws from beginning their campaigns early if they so choose. A candidate should be permitted to begin a campaign two or three years before the general election year if he or she is willing to register a committee at that time.

The end of the period during which private contribution are eligible for matching, December 31 of the election year,[27] is unrealistically short. Many candidates finish the primary season in debt. The period between the national conventions, which mark the end of the primary season, and the general election is the most difficult time for most candidates to raise primary funds. Candidates who have met the eligibility threshold for matching funds should be allowed to continue to raise contributions that qualify for primary matching funds until all debts, and winding down costs, have been met. At a minimum, the matchability period should be extended for a full year after the election.

Campaigns must be particularly mindful of the current limitations as they accumulate debts during the later stages of the primary campaign.

3.—Expenditure limits

A presidential candidate who accepts public funds for the primary or general election is limited in the amount he or she can spend in those campaigns.[28] These limits are adequate to enable a candidate to mount a viable campaign. However, the FECA creates one limit on general campaign activity[29] (in 1984, $20.2 million) and a separate limit for fund-raising[30] (in 1984, just over $41 million).

The separate limit for fundraising serves no useful purpose. It greatly complicates record-keeping and compliance. And, candidates are encouraged to devise ways to bypass it. For example, when using the mail as a persuasion device to reach large numbers of voters, the inclusion of a pitch for funds transforms the cost of the letter into a fund-raising expense.

One limit combining the amount allowed for general campaigning with the amount allowed for fund-raising is more realistic, would void the need for such "creative" devices and, of equal importance, would ease bookkeeping.

4.—State-by-State limits

The Presidential Primary Matching Payment Account Act and the FECA limit the amount that can be spent in each state by a presidential primary candidate who has opted for matching funds.[31] These state-by-state expenditure limits create an accounting nightmare, serve no useful purpose, and have no practical effect except in Iowa, New Hampshire, and perhaps, in Maine. These states have political and media importance well beyond their size but expenditure limits commensurate with their size.

If a candidate wants to spend every nickle he or she can raise, in a small, early state on the theory that a win there will carry him or her much farther than a war of attrition, that should be his or her choice. These limits spawn the most creative efforts to evade the spirit, if not the letter, of the Act.

5.—Grassroots expenditures

Provisions permitting certain grassroots activities by state and local party committees were added to the FECA in 1979.[32] Essentially, they permit political parties to engage in traditional party volunteer activities without the expenditures for those activities counting against the candidate's limits.

Some have suggested that the current grassroots provisions are being exploited as a loophole. Moreover, the requirements of this law are so difficult to follow that they curb healthy campaign activity. Add to this the fact that state laws and federal laws usually differ. It is easy to see why well-meaning volunteers get frustrated, and much spontaneous participation, so important to the process, is lost.

6.—Use of private aircraft

The FEC's regulations controlling the use of private, nonscheduled aircraft by federal campaigns are something to behold. By careful choice of airports and selection of aircraft based on who owns the plane (regular charter company or other corporation), the amount which a candidate pays for a trip may vary by tens of thousands of dollars.[33]

REVISION OF PUBLIC FINANCING REGULATIONS

The Commission is considering significant revisions to its public financing regulations.[34] Some of these changes can have significant impact on the audit process and on the ultimate financial position of the campaign. The proposed changes to watch include:

Shifting the burden to candidates to prove that reallocations by FEC auditors are incorrect.[35]

Requiring that taxes paid on any income earned from funds invested by the campaign be counted as expenditures subject to the overall expenditure limit.[36]

Considering expenditures incurred before the date of ineligibility[37] as non-qualified expenses if the goods or services are received after the date of ineligibility.[38]

Considering the costs of preparing the matching fund submissions as a fund-raising cost rather than a compliance cost.[38]

Requiring a campaign to have all assets appraised at the time of acquisition and at the time of disposal.[40]

Using the last-in-first-out method for determining when a candidate no longer has matching funds in his or her account.[41]

Changing the treatment of loans to publicly financed campaigns by various alternatives such as requiring certain types of security for such loans.[42]

Requiring 100 percent repayment of nonqualified expenditures paid after the date of ineligibility.[43]

THE COMMISSION AND STAFF

At one time or another every presidential campaign will deal with the Commission, the General Counsel's office and Audit Division.

In each instance in which the Commission, itself, has considered matters specifically relating to our campaign, its decisions have been fair and reasonable. This is not to say that we like the outcome of every encounter with the Commission. It is to say that the results were reasonable in the circumstances.

Throughout the campaign, our lawyers, talking with the General Counsel's office, and our accountants, talking with the Audit Division, were accorded courteous and helpful treatment. We encourage every campaign to establish these lines of communication. However, you must keep in mind that your comments during these communications may be noted for the record by FEC personnel and used during an audit or investigation.

The Commission and its staff acted expeditiously during the campaign, when time was of the essence, in such things as certifying and delivering matching funds. However, the post-election audit process dragged on longer than should be necessary.

It is not clear to us whether the length of the post-campaign audit process is a function of the experience (or lack thereof) of some of the auditors, their practice of going beyond sampling in reviewing certain kinds of transactions, a lack of funding, or the propensity of the audit staff to constantly be searching for new theories under which transactions are/can be deemed improper. Whatever the cause, there has to be some way to complete it more quickly.

There are several changes that would likely speed up the process. First, the FEC should adopt regulations and require adherence to strict time deadlines for the completion of audit work and the staff review. Second, the audit should not be commenced and, at least, shouldn't be brought to even a preliminary close until the bulk of the financial activity has been completed. In no case should the audit of a successful primary candidate begin until after the general election. Third, allocate less time to state limits. As much as 50 percent of staff audit time may be devoted to the state limits, which essentially means reviewing expenditures in Iowa, New Hampshire and Maine.[44] While the Commission does have an obligation to enforce the state limits, this does not seem like an appropriate allocation of audit time, given the size of the total campaign.

Because presidential campaigns are a unique animal in the election law firmament, perhaps the Commission and the campaigns would be well served by using major accounting firms to handle this audit under the supervision of the Audit Division.

SERVING AS TREASURER

The FECA requires that a campaign have at least one officer, a treasurer.[45] No contribution can be received or expenditure made when that post is vacant.[46] Oftentimes the title of treasurer is given as an honor to a prominent supporter. However, in our view, treating the job of treasurer as an honorific rather than as an operating position is a mistake for the campaign and for the individual seeking or accepting the "honor."

Treasurers will be found by the Commission to have violated the Act, in their offi-

cial capacity, if the campaign committee is found to have violated the law, whether or not the individual has taken any specific action which violates the law.[47] The Commission's theory seems to be that some individual must be accountable for the activities for the campaign. With that theory as a premise, the only alternative to holding the treasurer liable would be to hold the candidate liable, and that policy would not likely last longer than the time it took the ink to dry on the document proposing it.

The fact of the matter is that no campaign treasurer can maintain sufficient day-to-day control over the operation of a large campaign spread over 50 states, so as to assure that no provision of federal law is violated.

Anyone who accepts the position of treasurer should assume that there is a better than 50/50 chance that he or she will be at least be cited in his or her official capacity, for violating the FECA. The day may come when no reasonable person will accept this responsibility.

CONCLUSION

Eventually, every campaign completes its responsibilities under the Act, the last report is filed, the last box of records is placed in storage and it is over. In our case that may well occur just about the time this article is published.

While we have written about many of the problems and frustrations inherent in financing a presidential campaign, the fact of the matter is that with thoughtful planning and diligent efforts by all concerned you can avoid adverse consequences to the operation of the campaign with the FECA.

For us the bottom line is very simple. The time has come for the Congress to take a hard look at the way in which we are regulating presidential campaigns, or one day we may find that these laws have in fact subverted the process.

FOOTNOTES

[1] 2 U.S.C. § 431.
[2] 2 U.S.C. § 432(a).
[3] 26 U.S.C. § 9034.
[4] 2 U.S.C. § 441a(b); 26 U.S.C. § 9035(a).
[5] FEC MUR's 1667, 1704.
[6] *Id.*
[7] 11 C.F.R. § 110.14(d)(2).
[8] AO 1980-5.
[9] MUR 1704.
[10] FEC Agenda Doc. 1986-94.
[11] 2 U.S.C. § 441a(a)(1).
[12] 11 C.F.R. § 103.3(b).
[13] FEC, Manual for Candidates Receiving Presidential Primary Matching (1983).
[14] 26 U.S.C. § 9038(b); 11 CFR §§ 9038.2, 9038.3.
[15] Brief for the Federal Election Commission in Mondale for President v. FEC, No. 85-1338 (D.C. Cir).
[16] 11 C.F.R. § 9038.4(b)(4).
[17] FEC v. Florida for Kennedy Committee, 492 F. Supp. 587 (S.D. Fl. 1979); *rev'd*, 681 F.2d 1281 (11th Cir. 1982); *reh. denied*, No. 80-6013 (11th Cir. Oct. 8, 1982); FEC v. Citizens for Democratic Alternatives in 1980, 655 F.2d (D.C. Cir.) *cert. denied*, 454 U.S. 897 (1981); FEC v. Machinists Non-Partisan League, 655 F.2d 380 (D.C. Cir.), *cert. denied*, 454 U.S. 897 (1981).
[18] *Id.*
[19] FEC Legislative Recommendations, FEC Annual Reports, 1980 to 1985.
[20] 2 U.S.C. § 441a(a).
[21] 2 U.S.C. § 441a(1)(c).
[22] 26 U.S.C. § 9031;11 C.F.R. Parts 9031-39.
[23] 26 U.S.C. §§ 9033(b), 9034; 11 C.F.R. § 9033.2.
[24] 2 U.S.C. § 441a(c).
[25] 26 U.S.C. § 9034(a); 11 C.F.R. § 9034.2(c)(4). The starting date of the period is set by statute, the closing date by FEC regulation.
[26] U.S.C. §§ 9032(6), 9033(c); 11 C.F.R. §§ 9032.6, 9037.1.
[27] 11 C.F.R. § 9034.2(a)(4).
[28] 2 U.S.C. § 441a(b).
[29] *Id.*
[30] 2 U.S.C. § 431a(b)(vi).
[31] 2 U.S.C. § 441a(b)(1)(A).
[32] U.S.C. §§ 431(8)(B)(X), (xii).
[33] *Cf.* 11 C.F.R. §§ 114.9(e), 9034.7(b)(7).
[34] 51 Fed. Reg. 28154, August 5, 1986. These proposed revisions were pending before the FEC at the time of drafting this article.
[35] Proposed § 106.2(a)(1).
[36] Proposed § 9034.4(a)(4).
[37] Under FEC regulations candidates are no longer "eligible" to receive matching funds: (1) when they became inactive; (2) when they fail to receive at least 10 percent of the votes in two consecutive primiaries; or (3) at the end of the matching payment period (for major party candidates—the date of nomination). 11 C.F.R. §§ 9033.5(a), (b), (c).
[38] Proposed § 9034.4(b)(3).
[39] Proposed § 9035.a(c)(1). This addition to the regulations would essentially ratify the approach used by the auditors in 1980 when the regulations were silent as to treatment of the costs.
[40] 51 Fed. Reg. 28154, August 5, 1986.
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] FEC Written Responses to Questions by Congressman Al Swift Concerning Fiscal Year 1987 Budget Request, February 18, 1986.
[46] *Id.*
[47] Agenda Doc. 84-79, adopted at Open Session held on May 24, 1984.

Mr. KASTEN. I thank the Chair. The point of this article is that the campaign process which some are now saying works at the Presidential level clearly does not work in the way that many had hoped it would work when the bill was passed. And it is almost incredible to think but 26 months after the Mondale campaign has ended, 4 years after they first filed with the FEC, we still have two lawyers and an accountant in two different offices going back and forth trying to deal with the problems of their campaign.

There is one other article that I ask unanimous consent to have printed in the RECORD. It is from the Washington Post, August 10, 1980. And I think the headline is important with regard to the issues that we are faced with. The question here is "Are the Candidates Worth Your $100 Million in Taxes?" That is the headline. The subheadline is: "The booze, balloons, junk mail, limousines, nepotism and boring convention speeches that your dollars paid for."

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

[From the Washington Post, Aug. 10, 1980]

ARE THE CANDIDATES WORTH YOUR $100 MILLION IN TAXES?

THE BOOZE, BALLOONS, JUNK MAIL, LIMOUSINES, NEPOTISM AND BORING CONVENTION SPEECHES THAT YOUR DOLLARS PAID FOR

(By Mary Meehan)

Hey, there, taxpayers! If you turn on the TV tomorrow to watch the Democratic convention, you should realize that you are paying for the big show. Gavel to gavel, you're footing the bill for the podium design, the balloons, the banners, the music, the security, the sound system and the convention staff.

If the Democrats put on a dull show, you will have every right to complain, because each day of the convention will cost you more than $1 million. This should at least buy good entertainment, speeches equal to the best of William Jennings Bryan, and a presidential ticket worth voting for. If you get none of the above, you will know that another government program doesn't work.

Your tax money, moreover, is still paying leftover bills from the Republican convention that so many of you didn't bother to watch. You're also paying a large share of the bills from the primary campaigns of both parties—including tabs for booze and limousines and the like—and you will pay all costs of the Democratic and Republican presidential campaigns this fall. In 1976 the candidate and convention subsidies cost you about $76 million; this year, with a postal subsidy added and the price of nearly everything going up, the political subsidies will cost you at least $105 million, probably more.

Now, that may not be much by government standards, but I bet it seems like a lot of hay to you. Especially when you consider what you are getting for your money.

Perhaps you're among the roughly 70 percent of taxpayers who do not check off a dollar on their tax returns for the Presidential Election Campaign Fund. So you may think that you're not paying for Ronald Reagan's pollsters or Jimmy Carter's TV ads. I hate to shatter what may be your last illusion, but you are paying for those items.

You see, the people who check off a dollar do not sent an extra dollar to the IRS to pay for campaigns and conventions. They pay the same taxes they would normally pay, and so do you. All of their dollars and all of your dollars go into the U.S. Treasury. Then part of their money—and part of yours—goes to the special campaign fund. In other words, the 30 percent of taxpayers who do check off appropriate money for the 70 percent who do not. If this doesn't sound very democratic to you, just ask the people at Common Cause. They say it's a reform.

Anyway, back to the main point: What are you getting for your money? First, you might consider the quality of candidates this year. Are they worth $100 million? (Are they worth $100, you might ask.) Perhaps we judge contemporary leaders too harshly; maybe we should look to history as a comparative guide. But sometimes history is even tougher.

During the 1980 primary season, historian Barbara Tuchman said of the various presidential candidates: "Look what we're offered! God! The country that produced George Washington has got this collection of crumb-bums!" Mort Sahl offered similar views a few years ago. Sahl noted that during the American Revolution, when our population was far smaller than it is today, we had leaders such as Thomas Jefferson, Samuel Adams and Thomas Paine. Now, he said, we have leaders such as Gerald Ford, Ronald Reagan, Jimmy Carter. His conclusion? "Darwin was wrong."

Actually, the folks at Common Cause never promised us that public funding would buy us smarter, more competent or nobler presidents. But they did suggest that it would buy us presidents less beholden to "special interests." The ideas was that the taxpayers (willingly or unwillingly) would outbid the special interests. So we taxpayers invested more than $25 million in Jimmy Carter in 1976.

Yet the National Education Association, with a much lower bid, bought itself a Department of Education. The maritime interests, also low bidders, won Carter's support for a cargo preference bill. Democratic Party fat cats did not contribute nearly as much as taxpayers, but several of the fat cats won diplomatic posts.

Anne Cox Chambers and her husband contributed $51,000 to Democratic candidates and committees from 1973 through 1977; Carter appointed Chambers ambassador to Belgium. Milton Wolf and his family donated nearly $50,000 to Democratic candidates from 1974 through 1976; Carter made Wolf ambassador to Austria. Marvin Warner and his family gave $57,000 to Democratic candidates and committees in 1973-76; Carter appointed Warner ambassador to Switzerland.

A cynic might say that, thanks to the election law's contribution limits, ambassadorships cost less than they used to; but some of them, at least, are still for sale. So much for the Common Cause theory about public subsidies—which Common Cause and the Democrats would now like to extend to congressional candidates as well.

You may think that the 1980 candidates aren't much to write home about, or perhaps you are reserving judgment until the fall campaign. In either case, you probably hope that you are getting something else for your money. How about the conventions?

You are paying $6 million to $8 million for each major-party convention. Your Presidential Election Campaign Fund (the dollar check-off kitty) gives each party up to $4.4 million for convention expenses, balloons and all, and the Law Enforcement Assistance Administration (LEAA) grants each host city up to $3.5 million for "security assistance." (The LEAA program, which started with the 1972 conventions, pays mainly for police officers' overtime.)

All of this add up to the more than $1 million a day for each convention while it is in session. And that sum doesn't even count the many costs picked up by the host cities. Are conventions worth that price?

There are several ways to judge. You can view them as conferences in which the Great Issues of the Day are discussed—although not necessarily debated. Convention managers learned a lesson from the '68 Democratic convention debate on Vietnam and from the '72 Democratic convention debates on everything else. About the last thing they want on their prime-time TV shows is a live issue. The Republicans managed to get through their July convention without any platform debate. The unlucky Democrats seem unable to do the same; but I doubt that their platform debate will be worth $1 million a day.

Alternatively, you can judge each convention as a huge party in which the delegates booze it up and whoop it up and generally have a good time. The only problem is that you're not invited to the party. Even if you were, watching adults wear silly hats or use strange noisemakers may not be your idea of fun. Is a national New Year's Eve party worth $1 million a day?

Finally, you might rate each convention strictly as a form of television entertainment. Is the Billygate sideshow as good as "Archie Bunker's Place"? Did Grandpa Ronnie read his lines well enough to compete with "Little House on the Prairie"? Perhaps, as a new reform, we should establish a Taxpayer Board to Judge the Entertainment Value of the Conventions and to raise or lower the public subsidies accordingly.

The GOP might receive a bonus for the Great Ford Flirtation at its convention, If the Democrats stage a spectacular family fight, with broken dishes and blood all over the floor, they too, would win a bonus, On the other hand, negative points would be assigned for the most boring speeches. An alternative would be to provide an automatic rise or fall of subsidies according to the Nielsen ratings.

The subsidy for junk mail is lower than the others; this year it is $4 million. I suppose it is not very charitable to call party fund raising letters "junk mail," but I have received a couple of the Democratic letters and find it hard to call them anything else. For some reason, I'm not on the Republican sucker lists.

The two major parties slipped the postal subsidy through Congress in 1978, by making party committees eligible for the nonprofit bulk rate. Then last year, after realizing that several of the minority parties were taking advantage of it, they voted to exclude the minority parties but keep the subsidy for themselves.

This year the minority parties struck back with a lawsuit in federal court, charging discrimination. (John Anderson's independent campaign joined the suit late in the game.) The minority parties and Anderson won their case, though they are still excluded from the other political subsidies.

Now there's an effort in the House to cut off the postal subsidy altogether. The subsidy is worth about a nickel for each letter in a bulk mailing; so it's worth bushels of money to the Republicans, who send out huge volumes of direct mail. You can expect to hear moans of pain and grief if the effort to end the subsidy is successful; the party fund-raisers will sound like banshees.

But I think the opponents of the subsidy have a point: It's bad enough to have junk mail overflowing from your mailbox when the sender pays for it, but it really hurts when you have to pay for it. (Nobody knows the trouble you've seen; nobody knows the sorrow.)

You should also know about the waste factor. Even if you don't think that all of the political subsidies are a waste, some aspects of them may bother you. Since you are forced to pay for the subsidies, you should at least have the right to demand no-frills campaigns. That is not what you are getting now. In fact, I have a sneaking suspicion that federal subsidies are leading politicos to pay for services that used to be volunteered, and to buy things they would have to skip under a private-financing system.

In the old days, for example, campaigns had plug-in coffee pots; now they have coffee services. Back in January, Howard Baker's campaign paid a firm nearly $240 just for coffee service. In the old days, campaign volunteers decorated a headquarters. The chic thing now is to pay professional decorators for the work, as when George Bush's campaign paid $231 to the Freeman Decorating Co. of Des Moines to spruce up a campaign headquarters. But that was small potatoes. The Carter-Mondale committee listed on its June FEC report a debt of $19,250 to National Maintenance & Construction of Beltsville, Md., for "Office Alterations." In the old days, that would have been a do-it-yourself job.

The Carterites also apparently had a big party, perhaps a fundraiser, in Nashville early this year. As of June, they still owed the Nashville Tent & Awning Co. $561; owed the Famous Brands Liquor Store of Nashville $785; and owed Party Rental Services, Inc. of Nashville $524. That must have been some party. Don't you think that you should have been invited, since your matching funds will cover about one-third of the costs. Perhaps we should write into the law a guarantee that you may attend any political party you helped finance. If that were to come about, I fear they would offer you lemonade instead of bourbon, but at least the principle of fair play would be established.

I don't know what the Carter-Mondale volunteers do, but they certainly don't sweep the floors or dust the desks at headquarters. By June the Carter committee owed $4,730 to a Washington firm for janitorial services. And their leaders don't travel second-class either; they owed $903 to a Brooklyn firm for limousine service. And $261 to an El Paso firm for "Meetings-Drinks."

The Carter committee also provides employment for some of the president's relatives. Annette Carter received a mere $972 in take-home pay for June, but Chip Carter received $1,316. Jeff Carter received $1,750 in June for consulting contracts having to do with "computer service management." If they had only thought of it, the Carter high command might have kept brother Billy out of trouble by adding him to the campaign payroll, too.

How about the Republicans, those good fiscal conservatives? Surely they are more frugal with the taxpayers' money? Well, no not exactly. Republicans, I'm sorry to say have become big spenders from the East when it comes to their conventions. (Republicans as well as Democrats in Congress voted last year to increase the convention subsidies. This may sound a little bit like a conflict of interest to you, but Common Cause says it's OK.)

Late in 1979, and early this year, the Republican convention committee paid $15,000 to Mark Ambruster of Los Angeles for "program script for the convention." In the good old days, conventions didn't *have* scripts. But that was just the beginning. The GOP paid $20,000 to Water Mill Productions, Inc. of New York City for a design and development contract having to do with "podium design." Water Mill received another $85,000 of your tax money in the spring for construction supervision, a large-screen projection system, and other items.

But Syd Vinnedge Productions Inc. of Los Angeles has received a lot more of your money. By June 30th they had been paid $200,000—and were owed another $50,000—for the "convention theme presentation program." whatever that was.

The Republicans paid a fair amount of tax money for films, too. By the end of June they had forked over $45,000 to Palisades Communications of Santa Barbara for an "Auxiliaries Film;" and they still owed Palisades another $20,000. They sent $37,000 to A.B. Productions, Inc. of Los Angeles for a convention. I don't know about you, but I'm beginning to think that the GOP should have held its convention in Hollywood instead of Detroit.

There's more, much more, about the Republican convention that might dismay you. They paid $493, for example, for a "timer, etc. for hearings." That was either a mighty expensive timer or a mighty big "etc."

But enough of that. The question now before the house is: Will Ronald Reagan, that fierce opponent of big government, box some ears or whack some fannies and get the Republicans into line? You would like to think that, and so would I, but the outlook is not encouraging.

Although Gramps is philosophically opposed to public funding of campaigns, he accepted $4.4 million in matching funds for his 1976 primary campaign. In 1980 he has

received nearly $7.3 million in matching funds—far more than any other primary candidate. And just after the Republican convention, he applied for and received $29.4 million for the fall campaign. That comes to a total of $41 million in campaign subsidies for a man who does not believe in them. Gramps is no dummy.

Mr. KASTEN. Mr. President, this legislation would mean that the taxpayers would be financing campaigns. I think on that basis alone it deserves to be defeated.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will continue calling the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will proceed with the call of the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection has been heard.

The legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 11]

Burdick	Fowler	Rockefeller
Byrd	Johnston	Simpson
Cochran	Kasten	Specter
Exon	Leahy	Symms
Ford	Nunn	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of the 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. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. HATCH], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The result was announced—yeas 51, nays 41, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—51

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

NAYS—41

Armstrong	Hecht	Pressler
Bond	Heinz	Quayle
Boschwitz	Helms	Roth
Chafee	Humphrey	Rudman
Cochran	Karnes	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Lugar	Symms
Domenici	McCain	Trible
Durenberger	McClure	Wallop
Evans	McConnell	Warner
Garn	Murkowski	Weicker
Grassley	Nickles	Wilson
Hatfield	Packwood	

NOT VOTING—8

Biden	Gramm	Simon
Dole	Hatch	Thurmond
Gore	Kennedy	

So the motion was agreed to.

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

AMENDMENT NO. 1405, AS MODIFIED

The PRESIDING OFFICER. The pending question is amendment No. 1405, as modified, offered by the Senator from Oklahoma.

The yeas and nays have been ordered.

Is there additional debate?

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

Mr. LEAHY. Regular order, Mr. President.

The PRESIDING OFFICER. A quorum call is not in order since a quorum has been established. No business has been transacted.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I would inquire what is the status? You have now reported on an amendment before the body. What amendment was that, under previous unanimous-consent agreement?

The PRESIDING OFFICER. The pending amendment is amendment No. 1405, as modified.

Mr. SIMPSON. Mr. President, the majority leader is not present upon the floor. We are working on various thoughts about how to proceed in a rather civil manner tonight and tomorrow night but at this point since I have the floor, I would yield to Senator SPECTER. He is on the floor seeking recognition. He was on the floor seeking recognition. I cannot yield to him.

The PRESIDING OFFICER. Is this a unanimous-consent request?

Mr. SIMPSON. No, it is not.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized if he is seeking recognition.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. In the circumstance where a warrant of arrest has been issued and according to the appendixes of Senate procedure, there is an entry on a form for return of service by the Sergeant at Arms, what is the Senate rule with respect to that return of service in cases where the warrants of arrest were served?

The PRESIDING OFFICER. The Chair has not had a chance to study this matter and will require some time before we can respond to that parliamentary inquiry.

Mr. SPECTER. While the Chair is studying that parliamentary inquiry, let me put another parliamentary inquiry. What is the obligation of the Sergeant at Arms on warrants of arrest which are not served to maintain those warrants of arrest?

Now, I would expect the Chair to need similar time to study.

And let me give some of the background for the purpose of my parliamentary inquiry. There were many Senators who were absent last night at a time when the motion was made to instruct the Sergeant at Arms to arrest the absent Senators. There were some 45 Republican Senators and there were some six Democratic Senators who were absent at that time.

According to a press report today from the Associated Press, warrants of arrest were issued for the 46 Republican Senators.

I have made an inquiry of the Sergeant at Arms and have been advised that there were warrants of arrest issued for Democratic Senators, but I have not gotten a full answer as to

which Senators, and I have been further advised by the Sergeant at Arms that the warrants of arrest were destroyed.

Now, this Senator is considering a number of procedural moves on the issue of the procedure taken in the issuance of a warrant of arrest. So that Senators may be on notice as to what may eventuate and the purpose of the request for a ruling on the appropriate procedure for the return of service and the appropriate handling of the records, I may raise the issue that the warrants were defective in three important particulars.

When the majority leader made his motion last night it was in this language, "Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber, and I ask for the yeas and nays on the motion."

Mr. President, the Sergeant at Arms does not have any authority under any interpretation of Senate rules to arrest absent Senators and bring them to the Chamber in the absence of a warrant of arrest.

It simply is not fathomable that this motion would be sufficient under the rules without a warrant of arrest and this language of the majority leader does not ask for the issuance of a warrant of arrest.

There is a second obvious problem with these warrants. The Presiding Officer was not authorized under the Senate rules which are explicit in that they call for the President pro tempore to handle a variety of matters, authorize his designee who was Senator PROXMIRE, and authorize that designee to make a further designation which was not made.

According to factual information which I have discussed at length today, discussions with Senator ADAMS who I believe is on the floor and can make any disagreement that he sees fit on the fact there was no designation to him and also Senator PROXMIRE who I believe is on the floor, or was a few minutes ago that there was no designation.

So that the warrants were not properly executed in terms of there not being anyone who was duly authorized under the Senate rules.

A third issue arises where the form of a warrant for Senator PACKWOOD specified "who was absent without leave, to wit," in a large blank to be inserted with a statement of fact as to why he was absent, and there is no specification there.

The Sergeant at Arms informed one of my staffers, Paul Michel, Esquire, that a warrant had been issued for Senator KENNEDY, but in the CONGRESSIONAL RECORD there is a notation that Senator KENNEDY was necessarily absent.

So the form of the warrant of arrest requires specification which is not present in the Packwood warrant or in the Weicker warrant—two warrants which are available which this Senator obtained from Senator PACKWOOD and from Senator WEICKER.

Mr. President, I raise these issues because of the very serious import of the process on the issuance of warrant of arrest, and on the research which I have undertaken in the course of the day during which I have found no record of any warrant of arrest having been issued and executed since 1942. The CONGRESSIONAL RECORD going back to 1942, page 8905, contains a very strong protest from Senator McKellar, who stated that a warrant served on him was the "most shocking performance the like of which I have not known so far as I can recall during the 26 years I have been a Member of the Senate." And at an appropriate time the details of that process may be inquired into. But it was quite a cause celebre, and the issuance of a warrant of arrest is obviously a matter of enormous importance.

Before this matter can be evaluated in its entire context, we need to know precisely what the rules of the Senate are. As I read the form, and the return of service line, it appears to me that there is a mandatory requirement that when a warrant is served that there be an execution by the Sergeant at Arms. This is a form which appears at page 1175 of Senate Procedure, which reads: Washington, DC, to be dated, "I made service of the within warrant through my deputy", with their name, time and place, and signed by the Sergeant at Arms.

So that at least as to the warrant for Senator PACKWOOD and the warrant for Senator WEICKER there ought to be a return of service.

That is the purpose of my inquiry there which I understand is pending. And the issue about the other warrants, they are Senate records. It would seem to this Senator that they would have to be maintained as warrants are generally. But I make that inquiry as well so that there may be an appropriate pursuit of the important issues which I have discussed here which resulted in the arrest last night or early this morning of Senator PACKWOOD.

I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, last night I was peering out of the window of our Republican cloakroom at the beginning of the fifth rollcall of the day. At the moment, for some reason, the famous words from T.S. Eliot's "Murder in the Cathedral," came to my mind for in a sense I did not know whether I was being prevented from coming out or from going in.

T.S. Eliot said these words:

> Unbar the doors throw open the doors. I will not have the House of Prayer, the Church of Christ, the Sanctuary, turned into a fortress. The church shall protect her own, in her own way, not as oak and stone; stone and oak decay, give no stay, but the Church shall be open even to our enemies. Open the door.

While we can argue about the symbolism of this quotation, and whether last night the Senate was turned into a fortress denying entry to enemies either to a bill or to the Chamber or to the hideaways or to the private offices, or whether quite the contrary was the case, I do not believe now is a suitable time to reflect on the play as much as it is important to reflect upon what is happening to the U.S. Senate as an institution and to each of us as individual Senators.

Mr. President, I have served in the Senate now going on my 22d year. My term in office here has constituted the majority of my political life. I have been on this Senate floor when the great statesmen such as Senator Dirksen, Senator Mansfield, Senator Fulbright, and Senator Javits have delivered unforgettable speeches on war and peace, on civil rights, and upon domestic needs. It would only be a modest exaggeration to say that there have been moments of paralyzing drama in this Chamber.

I recall 3 years ago when Senator WILSON was wheeled through these doors just hours removed from major surgery to cast the decisive vote on the budget. I remember, Mr. President, when Senator Hubert Humphrey returned from cancer surgery and therapy, a man greatly reshaped in physical form, but not changed at all in spirit. He came through those doors, Mr. President, slowly, here to the well of the Senate. I can remember Senators standing in great ovation, and Senator Barry Goldwater, from over on this side of the aisle, began to move slowly with his hip problem down into the well. The symbolism war of a member of the left and the right of political thinking, or of the liberal and conservative of political thinking, these two old warriors as they saw each other, embrace each other with open arms here in the center of the well. And the warmth and love and the affection that has been so historically typical of the great ones of the Senate shown forth.

Mr. President, the legislative process, with its intricacies and its intrigue, is still a source of fascination to the relatively few of us who remember "the old days" when bills were handwritten in time, debates were spirited and staffs were not a roaming army of junior Senators.

In my opinion, this Chamber has provided moments that present all of the mystery and the majesty of Grand Kabuki.

So it is with sadness that I stand here this evening to reflect upon the last 24 hours' activities, events which had all of the majesty and mystery of a professional wrestling match between King Kong Bundy and Hulk Hogan. What took place last night was not guerrilla warfare as has been referred to. It was simple gorilla theater.

We want to convince ourselves that what took place last night was a partisan dispute between zealous advocates from the Democratic and Republican Parties. We want to believe that there is a perception among the public that the Senate is so concerned about the issue of campaign finance reform that it will resort to any and every tactic to preserve the Republic from cash-and-carry campaigning. However, it is my sense from the conversations with my constituency today, telephone conversations from many sources, that the public sees it differently.

Mr. President, in the history of the Senate, last night's confrontation was not the first outbreak of raw emotion. Our leader, Senator DOLE, on February 3, of this year, placed in the RECORD a very interesting vignette that took place on our Senate floor February 28, 1902. Senator DOLE placed in the RECORD the story of Senator Benjamin Tillman, who accused Senator John McLaurin, both of South Carolina, of allowing his vote on the Philippine Treaty to be "improperly influenced." Senator McLaurin called the accusation a "willful, malicious, and deliberate lie." The two gentlemen engaged in fisticuffs, with some heavy punches received. The Senate considered that it was worthy to suspend both Senators for a week from the floor.

Mr. President, in 1856 a great speech was made by an abolitionist-minded Senator, a Senator from Massachusetts, Senator Charles Sumner. He made this in such a powerful manner that the Senator from South Carolina, Senator Butler, Andrew Butler, was very offended.

Senator Butler had a cousin sitting over in the House of Representatives by the name of Preston Brooks. Congressman Brooks decided that there had to be a revenge for this rather personalized speech by Senator Charles Sumner. He selected a cane that he considered to be light enough not to kill Senator Sumner but sufficient to bring him some discipline.

He came over to wait for Senator Sumner to leave the Senate floor. And whether Senator Sumner knew this or not no one is quite sure, but he did not exit the Senate Chamber and, therefore, Congressman Brooks came to the floor and attacked Senator Sumner.

He caned him down, and got so enthused with his discipline that he went a little bit beyond his expectations or plans, whereupon Senator Sumner was taken to the hospital for care, and did not return to the floor of the Senate for 3 years. The exile was not one in which he was spending full time recovering. In fact, he was traveling in Europe.

When he did decide to return to the Senate floor it seemed as though he got a headache each time he left Massachusetts. Some thought perhaps there was a psychological fear in coming to the Senate, and this was picked up by the southern gentleman who reminded not only their Senate colleagues but the people of the world that Senator Charles Sumner was, in effect, a chicken not to come back to the Senate. Now they did not use that slang term, I am sure, in that day, but that was the message that was conveyed.

Mr. President, going back even a few years prior to 1856, we have a year, 1850, in which to see again raw emotion explode here on the Senate floor. Senator Thomas Hart Benton of the State of Missouri, who also was a man of great stature, over 6 feet, weighing a couple hundred pounds and more, had engaged in a very spirited debate with Senator Henry Foote of Mississippi who happened to be a man of very small stature. In the middle of this rather spirited debate, the Senator from Missouri, Senator Benton, loomed heavy into the horizon in a gesture of attack upon the little Senator from Mississippi, who fell to the floor. But reaching into his pocket he immediately produced a pistol and in a rather defensive manner indicated he was willing to use the pistol, whereupon when his colleagues rushed to intervene, Senator Benton, out of his great lung capacity, shouted "Stand aside. Let the assassin fire."

Well, they not only were separated without the firing of the pistol, but the Senate had a rather interesting debate about whether this kind of action should produce certain discipline. And they decided that no, they would not take action on Senator Benton.

So the issue was unresolved as to any kind of recrimination.

Mr. President, I only use history to say that we have survived, and we will survive even now, those moments that may not be the finest hours of the Senate. But certainly I do not in any way want to indicate we should not seek ways to avert this kind of outbreak.

In talking to my constituents, both this morning and this afternoon, I think it is very important to note that at least from my area and from other States of the West that I talked to, the procedural instrument of the filibuster is often we see as the catalyst for some more heated exchanges that take place on the floor of the Senate. And in fact, these people I think in general like so many of us who come here as a freshman are anxious to see reform in the filibuster rule.

I have resorted to the filibuster procedure twice. They were very obviously most worthy causes to draw me to use the filibuster. The first time was in 1979 when President Carter sought to reinstitute the draft. I am a bitter opponent of the draft.

The second time was when the line-item veto slithered its way to the floor with its familiar appeal to eat of the forbidden fruit of unconstitutional budget reform. By the way, that snake is still loose in our midst and we may have to kill it again with the filibuster. I hope not.

But it was with a great deal of reservation and reluctance that I chose the course of the filibuster, and it was with a great deal of respect for the institution of the Senate that I exercised it.

Mr. President, I do not want to rehash the details of last night's events and talk about who was chased where; who carried whom; or who hid and who did not; and what Senate rules have to say about all of this. My colleagues Senators SPECTER, BUMPERS, KERRY, WALLOP, and others have spoken at some length about this, and I listened intently to their comments.

Instead, I want to address the politics of the matter. I define the term "politics" as an exercise in human relations. Last night and this morning we had a breakdown in human relations—as perceived by many of my constituents—or put more colorfully, a breakdown in civility and basic courtesy.

What happened in this Chamber is happening all over the United States as our country becomes increasingly confrontational and combative. More and more the instinctive response to fight back is the preferred method to right a wrong. Last year about 15 million lawsuits were filed in America, which works out to about one for every 16 Americans. Every year 2 million Americans settle their marital differences with a divorce decree. Statisticians tell couples standing at the altar that they have about a 50-50 chance of ending up in divorce court.

But the question of conflict resolution between individuals is merely a reflection of the question of conflict resolution within individuals and, therefore, within institutions. Adult suicide is up, and nearly 2 million high school seniors attempted suicide at some time during their schooling. My home State of Oregon last year was cited as the "suicide capital of the United States"—not a very pleasant title, but an indication, again, of the growing inability of people to resolve conflict from within.

A Gallup poll last April told us that the number of American families affected by alcohol-related problems has

doubled since 1974, and so every fourth house in every neighborhood has someone drinking to escape life's problems. And this escapism spills over into predictable places. For example, since 1981, reports of child abuse have almost doubled. We are a people who often resolve conflicts within ourselves and between our neighbors with forceful, fearful means.

Mr. President, the world is also resorting to forceful, fearful means to resolve disputes. The world spends in 2 days for weapons what the UN spends in 1 year to alleviate human suffering. The world spends in 2 weeks for arms an amount more than the annual cost to provide clear water, adequate food, housing and clothing for every poor person on the face of the Earth.

And we are teaching our children to do what our Nation does. The most successful application of this administration's peace through strength philosophy has been seen in the lives of our toddlers. Sales of war toys have skyrocketed 600 percent since 1983. In 1986 alone, action and fantasy figures—the terms the toy industry uses to sidestep accountability for selling violence to impressionable children—in 1986 war toy sales crossed the billion dollar mark for the first time ever.

And so our children, our Nation, and our world are becoming increasingly more confrontational, increasingly more fearful of others and the future, and increasingly more dependent upon the tools of strength and force to defend ourselves and resolve our disputes.

Mr. President, there is another way to resolve conflict, but first we must redefine what constitutes strength. There is a weapon far more powerful, far more effective and far more worthy of the human being, and that weapon is forgiveness. There are wrongs committed and there must be accountability for these wrongs—we all agree—but there can be no healing, no reconciling differences, no moving forward together, until the balm of forgiveness is applied. And right now the wounds of conflict in the Senate are in need of understanding and forgiveness and mutual agreement to try not to wrong each other again.

Mr. President, in my capacity as a member of the Appropriations Committee, I have witnessed during the frenzied, hectic hours of negotiation and debate, times when the drive to get even, the urge to strike back, the desire to correct with anger, and the passion to punish when you have the strength and authority to do so—I have seen how paralyzing these forces can be on the body politic. And I think most all of us have seen those examples. But as Senators we must exercise leadership, model leadership, moral leadership, and we fail in this task when "eye for an eye" conflict resolution takes hold.

My friend LAWTON CHILES is leaving the Senate, and that is a true shame for this institution. He is leaving, in part, because the quality of life in the Senate has reached a level where he will end up doing more harm to himself than he can do good for the country, by continuing his distinguished public life in Washington. His premature exit, and the exit of other able legislators who left the Senate because the institution was no longer an appealing place to work, are signs of the time which we must heed if we are to do the people's business in a fashion that brings credit to our form of government and to our constituencies.

So I am presenting to my colleagues my hope that a spirit of forgiveness and reconciliation will replace what viewers through television have said to me they view as recrimination and parliamentary brute force as the spirit of the Senate.

Mr. President, we are faced with a very serious problem—the cost of political campaigns. And I do not think any one of us in this Senate on either side of the aisle denies the importance of this issue and the need to address it. I believe also that most everyone in this Senate agrees that the skyrocketing cost of campaigns now threatens the integrity of our democracy. In the not-too-distant future it is very possible that public office could be for sale to the highest bidder. I think we all agree that something must be done before that happens. But instead of sitting down together like statesmen to craft a solution to the problem, there has been a perceptible partisan drift to the debate and now we are facing a legislative gridlock.

Now, I want to suggest again a vignette of history. I am not suggesting it as a total parallel to the circumstance we now face, but I think there are lessons that we can learn from the period of 1905 and the Great General Strike that took Czar Nicholas II by surprise. A weak leader wholly unprepared for the challenges of the 20th century, Nicholas was suddenly faced with a very serious problem that demanded a response—his country was falling apart around him. So he tried a bold move, a move which could have laid the groundwork for a bright future in Russia. On October 30, he issued the October Manifesto, granting Russia a constitution and creating the duma, a legislature with real power. This was the first duma. It was an exciting time: after hundreds of years of Czarist rule, total autocracy—cruel, inhumane—and certainly one that had been condemned by Western culture and Western values, it seemed that Russia really was changing. But then Nicholas got scared, and retreated back into the partisan, and once-powerful, world he knew. Even before the first duma was convened, he declared that no law could be changed without his consent. Autocracy still, but to be tempered now by a little constitutionalism.

The result was chaos. When the duma did convene, radical parties were absent, having chosen to boycott the assembly. For those who were there—524 elected members in all—it was hardly a time for historic change: it took 2 weeks before the government submitted its first bill—to establish a laundry at the University of Dorput. Within a year, the duma had been dissolved. But the time the second duma convened, the radicals had decided to participate—but this time the reactionary members insisted on a return to the simple autocracy czarist Russia had known for so long. Eventually, it too was dissolved. There were two other dumas in the years to follow—the third duma even served for its entire 5 years. But their records were little different than those of the first two, and so it went for 12 years—12 long years of provisional government under the guise of constitutionalism, infighting and grandstanding.

No leaders, no reconcilers, no visionaries. Nicholas had failed to provide the leadership and no one was willing or able to fill the void.

We know what happened, Mr. President, because the Union of Soviet Socialist Republics sprang forth from the infighting and grandstanding and favoritism of those years. The 70-year history of the Soviet Union is full of repression and aggression and real human tragedy. That history is, in large part, a result of the inability of the government—Nicholas, his ministers, the duma—between 1905 and 1917 to address any but the least significant issues and, more importantly, the inability of that government to come together to craft a vision of the future. Whether it could have been avoided—whether statesmen and leaders could have worked together in those years to craft a viable vision and a government—is a question we can never answer. But it is beyond a doubt that the infighting and pettiness of those years contributed directly to the 70 years of suffering which followed.

Of course even more immediate suffering came as a result of those years, too. The famine which gripped Russia in 1921—just 4 years after the Bolsheviks had come to power—might well have been avoided if previous leaders, genuine leaders, had had a little less ambition and a little more vision. Had it not been for Herbert Hoover, the Secretary of Commerce who went on to become our 31st President, the tragedy would have been even worse. For almost 2 years, he and 180 other Americans supervised the feeding of some 30 million men, women, and children in 25 Russian provinces. Some

540,000 tons of food and desperately needed medical supplies were distributed out of the generosity, the hearts of American citizens and Western countries.

Mr. President, still hundreds of thousands of people died. In fact, later the head of the Communist regime in the Soviet Union, the Great Comintern passed a resolution thanking Secretary of Commerce Hoover for saving the lives of 18 million Russian citizens.

I might digress for just a moment because, having been a history buff of this particular period, it was a very interesting political situation that took place within my party. Mr. Harding, who was the President, later followed by Mr. Coolidge, were both very conservative Republicans and, therefore, they were very unhappy with the advent of the influence that the Secretary of Commerce exercised in the country. The prevailing attitude amongst conservative thinking in America was: This is God's judgment visited upon the Soviet Union for its devilish, evil system of government. Let them die. Let them die of starvation.

Well, that public opinion was turned around by the Secretary of Commerce who said: We cannot let political ideology nor national boundaries determine our response to people who are hungry and people who have needs in the world.

Hoover's establishing that particular position, as well as having been a member of the Wilson wartime Cabinet, and having campaigned for a Democratic Congress in the congressional elections of 1918, all trailed the Secretary of Commerce into the White House. And they were the foundation points of the difficulty, not with the Democrats of the Congress so much as with the Republicans of the Congress, in getting his programs through the Congress. For they even had to compromise with that wing of the party in the 1928 nominating convention by nominating a rightwinger, the Senator from Kansas, Charles Curtis, to placate that wing of my party because they had nominated the liberal progressive Secretary of Commerce, Mr. Hoover.

This is one of our less understood periods of American history, a period of American history which has been most communicated by bias and partisan smears over the years. I am very hopeful that the New Left historians will accomplish their tasks in reevaluating this period of American history and particularly the Hoover role in that period of American history.

Mr. President, I have digressed, but I want to say that it takes a bit of talent to be able to work Herbert Hoover into this particular issue. Nevertheless I am proud to be able to do so.

Of course, I do not mean to suggest that Vladimir Lenin is waiting outside our doors. But I do mean to suggest that we are facing many great and deadly threats to our democracy throughout our country and the inability to meet some of the problems that we do have. I suggest that we should be about the business of dealing with those issues and I think that we can do that and we can do it with leadership. We have the reconcilers. We have the vision to work together to address these great dangers.

I need not go into a long enumeration of them but let me mention some. I hate to say this but my State is increasingly becoming recognized as one of the greatest sources of drugs—from either growing the drug marijuana, producing and manufacturing amphetamines, or the ability to transfer from the source of those drugs, the development of those drugs, to a market. I think increasing drug use that could be seen in most areas of our country.

We used to be concerned about adults utilizing drugs. Then we became concerned as they swept our colleges and universities, and then as it drifted down into our high schools and secondary education. And now we are looking at the situation having penetrated our elementary schools.

That, in itself, to me is one of those problems that we must address in a far more effective way. Our energies, our vision, our togetherness, our cooperative attitudes have to be applied to that.

I am concerned about our growing numbers of American citizens on the streets. Many of us participated in the fight for homeless legislation. But I also am mindful that when we authorize a program that is but a hunting license for an appropriation. We in the Appropriations Committee have tried, and others joining with us, to provide the resources necessary to deal with the homeless of this country.

I am sorry to say that we are not keeping up. We are taking one step forward and maybe three backward in terms of the numbers and the difficulties of a less-than comprehensive analysis and program. It is rather ironic when, in Washington, DC, the Nation's Capital, two people die on the street at a time that another homeless person is bringing suit for having been forced into a place of care and shelter. That, in part, is because we have an estimated 2 million mentally disturbed people that have been dumped on the streets, in part, from our mental hospitals and centers which themselves have had difficulty in maintaining the resources to care for these people in those institutions. Well, that is another issue that is a cancer in our society.

I think we should be deeply concerned, as well, when we begin to look at the problems facing us in education—Mr. President, let me illustrate it in a simple illustration.

Two years ago we were funding SDI researchers that made up about an army of 5,100 researchers. In the current year the administration asked for an increase in funding that would produce 18,600 researchers in SDI. We did not grant that number, but that was the request.

About 2 years ago we funded AIDS researchers; about $300 million was appropriated for that purpose. That jumped, last fiscal year, to $600 million. In the current fiscal year we will have committed $1.1 billion for AIDS research and battling that problem. Now, all of these researchers whether you are talking about AIDS research or SDI research, all demand, components of math and science in their educational experience and background, to some degree or another. I am not suggesting that all must have a doctorate in math and science but certainly they must have some basic science and math, both collegiatewise and perhaps even postbaccalaureate.

This year in hiring new teachers for secondary education in America, as an average across this country, almost 50 percent of those teachers were temporarily certified because they were not educated to teach math and science. We had to put a warm body in the classroom.

When you begin to look at that issue of the eroding foundation for developing the person power pool to provide, at the other end, those increased demands in the market place for R&D, in the science of SDI research, and in health science for AIDS research, we will soon recognize that appropriating dollars is not going to get the job done because we do not have the persons necessarily trained or properly trained to perform the duties.

I could go on and give many other examples. We are going to become more competitive in international trade markets and that is going to demand R&D.

Over 50 percent of the products—the Hewlett-Packard Co., which is one of our primary producers in the market today are the results of technology that has been developed out of their R&D in the last 4 years. That indicates, again, the fast-changing picture in products coming out of science. So that is a very basic problem.

I am very pleased to see the administration for the first time in 8 years of budget presentation offer and suggest an increase in the education budget rather than decimating the education programs through the proposal to abolish the Department, and through the excising of vocational education programs, special education programs, student loans and student grant programs for higher education. I am still of the opinion that that turn-around has to be somewhere related to the fact that even with the preoccupation

with increasing military spending for this quest for new weapons, not only in quantity but in quality and technical sophistication of weaponry, finally a light turned on that even to operate these particular new weapon systems it will take a better and more solidly educated person than we are able to attract now, through the failure to meet those educational problems. This is only one manner in which our problems confront us on this matter of education.

I could go on with many other areas in which we need to develop solutions and resolve the conflicts and inadequacies by which we become victimized. Let me just cite briefly one other and that is in the field of Alzheimer's disease. We are reaching the figure now, Mr. President, of about $30 billion a year that it costs to take care of and support victims of Alzheimer's. That is reaching the figure of $20,000 to $25,000 a person.

Increasingly, families are bereft of the resources and the ability to do this. Yet a handful of years ago we were only providing a handful of dollars for research. Our research is still far from a point where we could hope for some relief from this increasing enemy of our aging people.

We cannot redistribute the medical research money from cancer, from neurological disorders, from all these other areas where we have reached levels of breakthrough in order to meet the unmet needs of Alzheimer's and to crank that research up to a level of adequacy.

Mr. President, these problems are going to come home one of these days in such dramatic fashion, and we are going to regret the wasted hours, the wasted time that we did not address them as a priority issue.

Mr. President, I would be willing to bet that not a single person in any of those Russian Dumas between 1905 and 1917 wanted what happened in subsequent years. I really do not think they did. Even those who followed after some of the radical parties could not foresee that they would be betrayed. But their refusal to sit down and address the realities of their day all but handed their country over to the Bolsheviks.

While I do not want to suggest that the Bolsheviks are outside these doors, I want to say that there are hungry, hurting, wounded, desperate people outside of these doors, our American citizens, who are hoping for some kind of relief from either their economic, their physical, their mental, or their spiritual problems.

At a time when our economy and our foreign policy and our system of democracy must respond to the demands of this newer era, I do not believe that the United States Senate can afford to be bogged down in battles that separate us, that squander our precious time, and that create wounds that will be difficult to heal.

Now, Mr. President, I wish I had a simple answer, and although I do not have a simple panacea, I know that the goodwill in this Senate exists. I see people who have been toe-to-toe in strong, perhaps loud debate, go out through these doors arm and arm and join each other in a soothing cup of coffee.

We have that glue in the Senate. Let us not squander it. Let us not waste it. There is that wonderful glue that transcends our differences.

Let not this incident or this particular issue continue to the point where it becomes more difficult for that glue to operate, for that healing balm or that sense of transcending friendship to overcome differences of political opinion.

The PRESIDING OFFICER [Mr. ADAMS]. Has the Senator from Oregon ceased? I do not wish to take the floor from him if he is still speaking.

Mr. HATFIELD. Would the Chair repeat the question?

The PRESIDING OFFICER. Has the Senator from Oregon completed, and is he yielding the floor? I will not take the floor from him if he has not completed.

Mr. HATFIELD. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. I thank the Chair.

I want to congratulate my friend from Oregon on a very fine statement and one that only he can make from time to time, talking about healing, and about this institution.

I have noted in my brief tenure here very important times during critical debates that the senior Senator from Oregon rises to the occasion to show us where we ought to be going, and I think he certainly did again here tonight and particularly in his conclusion because if you want to look at civility and you want to look at how this institution ought to work last night is certainly not an example. I mean that was an act of absurdity. I mean the very idea of moving to arrest Senators. I just had a conversation with my 11-year-old son who is the second son of three children that I am blessed with. I phoned to tell him to tell his mother, my wife, that I would once again not be coming home for dinner. It was not any great shock to them. They were watching television and knew that the Senate was bogged down in another filibuster.

But what was on his mind was he asked me about this arrest warrant that his mother had told him about and he had found out through the news media. He wanted to know how it affected me, and I tried to tell him that it did not affect me, inasmuch as they did not find me. He thought that was OK, too. He did not really appreciate his father or thinking of his father getting arrested, but then he is a very sensitive and compassionate person, particularly for a young age of 11.

He wanted to know and made an inquiry about Senator PACKWOOD, whether he was all right, and I told him he was and we got on to another subject that I would not be home and to make sure to relay that information.

But, Mr. President, I believe that you cannot just let bygones be bygones. We can forgive, as the Senator from Oregon has said, but actions do speak very loudly and that type of an action last night of having to resort to an arresting of Senators which had not been used for a considerable period of time and used on an issue that everybody knows has no chance of becoming law—I mean if this were a Civil Rights Act, where the President was involved, or this was a major piece of legislation that there was any hope at all of becoming law perhaps, perhaps draconian and drastic measures ought to be implemented, but I really think that this is an act and we talk a lot about lameducks in this town, that was clearly an act of a lameduck. I do not believe that this was an act of something of trying to instill some semblance of a quality of life in the U.S. Senate. We can always speak of quality of life and we do that a lot around here.

But this legislation that is before us that we stayed up all night last night and will be up all night tonight people will be here speaking and they will be instructing the Sergeant at Arms and it is the majority's responsibility to produce the majority in the quorum. It is not the minority's responsibility.

The minority is engaging in what is proper responsibility in conducting this unlimited amount of debate, but having not one iota of a chance of passing, and yet we go through all these shenanigans that certainly appear to be an act of a lameduck.

People say I know a lameduck when I see it, it acts like one, it talks like one, does things like one, and I certainly think this is probably very fitting.

Mr. President, I think what I do is to concentrate on the issue before us for a while and then I may get into some other matters that I think are, quite frankly, more pressing than the issue before us.

I have a great deal of interest in the INF Treaty and where we are going and the whole area of armed services and foreign policy.

I see the Senator from Ohio is on the floor, and he and I heard a very good testimony this afternoon from Dr. Kissinger.

Unfortunately, I did not have the chance to read the testimony. I was there to ask questions. Since I did not

have that opportunity, I may get the chance and just read it later on tonight and explain it to everybody because I thought it was brilliant, his presentation was brilliant and the Senator from Ohio, Senator GLENN, commented that he had a lot of time during this filibuster to read it, not only once, but he read it twice, so it might be a good redundancy for Senator GLENN when he gets into that topic, but it would not be redundant for others. As a matter of fact, it might be a bit refreshing to get off of the topic that we have been on for quite some time.

But let me for the moment, Mr. President, focus on the issue at hand:

Mr. President, it seems like every year someone comes up with a new way to reform the political process and that reform is sometimes to keep people from taking part in the political system by putting new constraints on our rights to express our political views freely.

Every year we go back to the question that somehow manages to remain with us no matter how much we reform the system.

How do we preserve the integrity of our democratic electoral process? That is always the question.

We always want to put the word "reform" on there for somehow reform means that things are getting better.

You know, we tried to reform the process of the Congress about a little over a decade ago. It was called the reform of the budget process and how that the Congress was really going to get a hold of things and put the label "reform" on there. And we said we are going to be able to reform this process. We are going to let Congress really get ahold of it and what we did we created a budget committee and by creating a budget committee in the name of reform we now have the budget committee, the appropriations committee, and the authorization committee.

And quite frankly I think in the name of reform in trying to get ahold of the budget problem, that we reformed ourselves into a process and a system that has not only not produced a balanced budget but I daresay that the reforms that we instituted in 1974 that has now led to these grand continuing resolutions where we pile on 13 appropriations bills at the end of one Congress, that we have really gone backward in many respects.

We have gone backward in the fact that our Government and the process of our Government today is far less open to public scrutiny, public debate, than it has been in recent modern-day history.

We do not have that debate. I have lamented that fact. We do not even have the debate. As a matter of fact, I thought and Senator Baker used to say, "By golly, if we just get television in the Senate we will get better debate here. We will get out and we will start debating the issues."

Well, we have the situation where we have these appropriation bills all put into one because we do not have time to do our job. The authorization processes, except for the defense authorization bill, are basically nonexistent. They are always tacked onto a continuing resolution.

But in the name of reform, we created the Budget Committee and in the name of reform after Vietnam and Watergate, by golly, we are going to open up the process—Freedom of Information Act, sunshine laws, let the public know what the public representatives are doing.

We took that reform and we went on and on and on and we campaigned for it. We took it to the people. We took votes on it. Sure enough, sure enough, we reformed the situation back in 1974 and 1975, but we reformed the situation now where we have a far more secret government today than we certainly did in 1974 and 1975 and more secret government than what we had in modern-day history.

The reason we have a secret government is that we do not debate what is in those bills. You get that continuing resolution here and a Senator may know about what 3 or 4 percent is in that bill. That is about the extent of it. The other 95 percent, 96 percent, they have not a clue. We have to wait on down the road to find out what is in there. The press will point it out. Staff will point it out. We always have to have technical amendments, correct bills, things of that sort.

But we do not debate it anymore. We do not debate the issues. We do not debate the issues that we are going to act upon. We are not debating foreign policy here today. We are not debating armed services. We are not debating the INF Treaty. We are not even debating the budget. We are not debating education. We are not debating job training. We are not debating on how we can lower the interest rates. We are not debating on what we ought to do about competitiveness. We are not debating what we ought to do about productivity.

I guess those things are not important because the leadership has decided that the thing that is important that is going to take all the Senate's time is campaign reform, namely, campaign reform.

But let me tell you what campaign reform is: Campaign reform is the taxpayers paying for our elections. Wonderful.

You ask that question on a poll or survey how many taxpayers want to pay for Senators and Congressmen elections? Let me see those results.

You go out and the next time you are at a chamber of commerce or the UAW hall or out at a farm bureau meeting and you have 100 people there or more or less and ask them the question, say "Do you think that the taxpayers ought to foot the bill for my election and my colleagues for Congress election?" Unless you have somebody that is a member of a special interest group that happens to be pushing this for perhaps their own agenda and own reason, you will probably have a total unanimity that nobody is interested in it. Nobody is interested in it. They are not interested in a new entitlement program. People I talk to are interested in balancing the budget, reducing the budget deficit. There is a lot of cynicism out there. A lot of cynicism going on out there and I cannot blame them.

I cannot blame the American people for being cynical of what Congress is doing. And I join them in that cynicism. And I join them in a personal type of frustration because we are going to spend many more hours, tedious, boring, nonenlightening except for what I have to say and perhaps others, a few others might have to say, debate, debate on the taxpayers, debate on the taxpayers paying for our elections.

So we always come up with some new grandiose idea. Just put "reform" on it. Put the name reform on it. Is anybody against reform? Nobody is against reform because somehow reform means progress.

I daresay how the Congress reformed itself with the budget process in creating a Government that is more secret today than has ever been in modern contemporary times, is a kind of reform that we can do without; the kind of reform that we can in fact do without.

This year the new scheme that is outlined in the Boren-Byrd bill is to force the taxpayers to pay for our elections, set limits on how much candidates can spend, and restrict the roles that organized groups can play in our campaigns.

Let me state that again. The Boren-Byrd bill is to force the taxpayers to pay for our elections, set limits on how much candidates can spend and restricts the roles that organized groups can play in our campaigns.

So as we continue to talk about reforming the political process which I am not convinced that we ought to be doing just now, I am not convinced that it needs reform and reform is either taking a step forward or taking a step back. And before we jump to this conclusion, but everybody knows this bill is not going to pass, it is not going anywhere. It is not going to become law. I do not think anybody who has stood up says that, if they are I would have to say they are not speaking for reality if they think this bill has any chance whatsoever of becoming law.

But as we talk about reforming the political process, there are some important questions that we need to ask. I do not want to get too provocative in asking questions about this legislation or what it is all about. But I will try to proceed with as much restraint as I can.

Why, for instance, is the Senate deliberately trying to limit access to the political system? Why is the Senate deliberately trying to limit access to the political system? This political system of ours is the greatest in the world, and it is great and this country is great for one very important reason. And that is that we are free.

You ask people around the country, and you ask Americans and what sets them apart from any other country in the world and what makes this country to be able to generate the wealth and productivity and have the standard of living that we do, and time and time again the answer that will come back is that the reason we are able to do that is because we happen to be free Americans. You talk to people around the world about why they want to come to this country. Why do they want to come to this country? They come to this country because we are the freest nation in the world, and yet the political system that is responsible for preserving that freedom, the sponsors of this bill apparently want to limit, to limit the access to that political system.

What is wrong with getting more people in the political system? What is wrong with that? I thought we wanted more people in the political system. More people are contributing in a financial way in the political system than ever before. And I might add it is in small amounts because of the campaign limitations that we have, the limitations of political action committees and the limitations of individuals.

Now, what we are trying to do is say, no, what we want to make sure of is that the political system is open. But we want to make sure that it is not too open. We do not want to get carried away with the freedom, we do not want to get carried away with openness, we do not want to get carried away with the competition. I would say that those are pretty good, fundamental principles that we ought to have.

Why is the Senate about to step on the first amendment in the freedom of political speech by keeping these organizations from making a contribution to the political system? Why? Why do they want to have these inhibitions on the first amendment? That is why we are here because of the court case in the Supreme Court that rules you cannot limit individuals in how much they are going to spend on their campaigns. The Supreme Court says you cannot do that. So if the Supreme Court says you cannot to that, you have to figure out a way to muzzle these folks, get around that Supreme Court decision.

Actually, I do not know why the Senate would try to limit the freedom of speech of anyone in this country. What is wrong with freedom of speech? Where are my civil libertarians, and all the civil rights people on this issue? Why should we force taxpayers to fund candidates whom they either do not support or whom they oppose?

Unfortunately, many people in my State oppose it. It is part of the system. Why should they be forced to pay for my election? Why should we make those taxpayers that go out there and work hard to pay for something that I want to do in life like run for public office? Why should they be forced to use their hard earned money? We ought to think of that.

Think of the individual in rural America that is out there and gets up early in the morning, works hard, comes home, has a family, tries to produce and then all of a sudden here we go. He is going to produce and he is going to have to pay whether he likes it or not for the elections of Senators and Congressmen. He does not have a choice. It is going to be a tax. The taxpayers will be funding the candidates.

I suggest that we ought to think about that. We always are interested in looking at polls on how many people in America really support taxpayers financing of Senate congressional campaigns. I do not think you will find too many people. As a matter of fact, in this day of reform, and we reform things, post-Vietnam, post-Watergate, we created political action committees. And if the problem is political action committees, we will find a lot of support on this side of the aisle. Political action committees, if you want to vote to limit it, or if you want to vote to eliminate political action committee contributions, you will have a lot of support on this side of the aisle if you want to limit PAC's involvement in the campaigns. And if that is the desire, if that is the desire, then we ought to talk about it. I doubt if that is the desire.

One of the sponsors of this bill I am told gets about 70 percent of his money from political action committees. Obviously, one who is going to get 70 percent of their money from political action committees does not have a whole lot of incentive to limit political committees. But if that is the problem, political action committees are the root cause of why we are here, strike a deal. We will go and look at the problem with political action committees, and if we want to have limits we will limit it. We will make it $2,000 instead of $5,000, or we will make it $1,000, if you want to limit it to the overall amount the person can get from political action committees. Do you want to get rid of political action committees? That is not the issue in this bill.

Many people think that is the problem. Many people think it is just the political action committees. Sign up, join the parade, and we will make you a deal real fast. That is not it. It is only what we talk about. We get up here, we rant, we rave about all of those nefarious political action committees. I do not see this bill trying to do away with political action committees. No. It is something else. How can we build in a political advantage? How can we figure out a way to, and what this bill really does is help out incumbents. I am an incumbent. I probably ought to be for that. But unfortunately my party is in the minority. So it would not help the party overall. It would help me individually. This bill would actually help me. It would be easier for me in election. It would be tougher for my opponent. It would be far more difficult for my opponent who would be limited to the same type of campaign spending, yet I as one Senator have access to thousands of dollars, legitimately, to spend in fulfilling my responsibilities as a Senator from Indiana.

And it is impossible to tell, particularly in an election year when you are making a speech and you may not even make one political overture or say one thing about your opponent, you show up in an election year, that is a political event, and it has the overtones of a political event.

So this is really the incumbents' protection act of 1988. It protects incumbents, but I suppose that is all right in the spirit of trying to limit political access, in the spirit of not caring about if you get 80 percent of your money from political action committees, in the spirit of stepping on the first amendment. While you are at it, while you are trashing all of those things, why not just throw in a little bit of good, old-fashioned incumbency protection?

I wonder why we are creating yet another costly government entitlement program, one exclusively dedicated for a handful of men and women in this country when our budget deficit is to put it mildly out of control.

The budget deficit is out of control, and here we are in Congress arguing about a bill to create another entitlement program, one more entitlement program, one more time. This is reform. So this entitlement program is OK as long as we put the word "reform" on it. It does not matter if it costs taxpayers more.

We ought to ask the taxpayers if they like reform if they are going to be paying more. And I would say that they do not and would not.

Why has the spotlight been so tightly fixed on PAC's supported by busi-

ness groups? Should there be an equal spotlight on the massive use of labor union resources and other self-styled independent groups on behalf of political candidates? I mean, if we are going to talk about expenditures in campaigns, let us talk about expenditures in campaigns. This is a very self-serving, selective piece of legislation that is devised to gain political brownie points.

But I think the longer that we talk and the more that the American people find out what is in this bill, that they will be writing letters, they will be talking to Senators when they are home, they will be making comments at town meetings. They will be doing various things when we are back here debating this taxpayers subsidy bill.

And I would imagine that when we go home this weekend—if we do; we may still be here. We will go home in a week or so. When you go back to your respective districts, respective States, go to the rural part of the State. Ask those folks what they think about picking up the tab for our next election. Ask the American people what they think about a new entitlement program, a new entitlement program that has the label "reform" on it. Well, this little reform bill has a little catch and that catch is that you, John Q. Citizen, are going to be picking up the tab.

Mr. President, the fact that public financing of Senate and House races could cost us $500 million every 2 years is all by itself enough to oppose the Boren-Byrd amendment.

Let me say that there are other reasons why such a scheme simply does not make sense. For one, public financing would distort elections by imposing the same system on 50 different States with different degrees of competitiveness in individual races. The problem of getting elected is a personal one in each State with each candidate's constituents. It is not a national problem. What works in California does not necessarily work in Indiana. What is accepted practice in New York might be an inappropriate practice in Indiana.

When Senators go from Washington, DC to Virginia to campaign, or go to Maryland, there are not that many costs involved. Going back and forth from here to Indiana could cost in a campaign year as much as $50,000. Going to California would be much more; going to Alaska would be more; going to Hawaii would be more.

Public financing would also sever a violent link—a voter's right to financially support a Senate candidate in his or her own State.

By instituting a national checkoff on IRS forms for Senate races, tens of thousands of voters from one State would be donating money for Senate races clear across the country in other States. In effect, this would remove one of the direct links between a representative and the constituent he serves.

But I guess that does not bother the proponents of this legislation that that link may be taken away; that what we are doing is in essence nationalizing these elections, letting the taxpayers pick up the bill.

You know there are always schemes on how we can nationalize and centralize things. Most of those schemes have never seen the light of day because this system of ours is a representative democracy that is very pluralistic. We are decentralized. We really believe that the power is not vested in the Government or in Washington, DC but the power is vested in our people; that we do not govern because we are the Congress and the Government of Washington DC, we are governing because we have consent from the people to govern—the people of this country.

And I can say that in traveling back in my State—and my State is no different than Ohio or Arkansas or any other State; it is just a small Mideastern State filled with a lot of good people, a lot of good folks. And when I go home and ask them what is on their minds, I guarantee you something that is not on their minds, and that is creating a new entitlement program to pay for Senators' and Congressmen's elections. I can guarantee you that is not on their minds. I will tell you what is on their minds is this budget deficit. That would be the first thing that would come up. And if they thought for one moment that this bill had a chance at all to see the light of day in passing legislation, they would be on my back telling me to vote against this bill. If they really thought and knew that this bill had a chance, they would be all over me. And they should be. They would say, "Have you lost your senses? Have you absolutely come uncorked?"

I am not supporting this bill. I am going to talk about it and other things until it goes away. And it will go away. It will fly away. We have had seven, I think seven, votes on cloture. And I predict that probably this one, because civility and things of that sort have broken down a bit, I imagine this time around the vote will probably be worse; that the proponents will be going in the other direction as far as picking up support; that the arresting of Senators does not get more votes.

While the Boren-Byrd bill does set a minimum threshold of individual contributions that Senate candidates must receive before becoming eligible for public funds, it would discourage any candidate from raising any more than he needs to meet his threshold.

Perhaps it is no coincidence that the threshold fundraising requirements favor those who raise money from large donors—not the little guy, but the big fat cat that we hear so much about. Large donors, not small donors.

Let us rely upon large donors, fewer of them. Let us not get too many people involved in this political process, but fewer of them. But make sure that the big boys and the big girls are heard from. The guy that works, the guy that gets up, the guy that puts in a legitimate week's work, sweats, has a family, tries to raise his children, do not let us get him involved. Let us just leave it to the large donors.

Senator PACKWOOD yesterday explained, in what I thought was frightening detail, why it is easier to raise money in large donations under the Byrd-Boren bill. The simple fact is that it takes more money to raise money in small donations than it does to get a few large checks. The Washington Post has pointed out that the majority party in the Congress gets the vast majority of PAC donations and that over one-half of all Democratic campaign donors make more than $100,000 a year.

Let me repeat that. Someone might have missed it. It is an important point.

The Washington Post has pointed out that the majority party in the Congress gets the vast majority of PAC donations and that over one-half of all the Democratic campaign donors make more than $100,000 a year.

I suppose that we might describe this legislation as "The Fat Cat Protection Act of 1988." Make sure the big boys and girls are taken care of.

I do not want to hear again about this country club business. I think we know who the country clubbers are and who the rich folks are and who the fat cats are and who the large donors are.

Some of us just want to raise money from the people, from the folks back home.

Financial support can be as important as votes. It is part of the political process, a way for individuals who feel strongly about a candidate to become personally and directly involved.

So why are we even thinking about discouraging voters' rights to financially support Senate candidates from their own States? And why would we want to give even more power to PAC's and large donor fat cats in the fundraising process? Why do we not do something to encourage small donors?

Why do you not think about, in the name of reform, perhaps the elimination of PAC's or reintroduce a tax credit for small donors? Ha. We do not want small donors. It takes time.

If we are going to have small donors contribute, by golly, I might have to have a breakfast fundraiser, I might have to have a lunch fundraiser and a dinner fundraiser when I could sit down at the table with some of my few selected rich friends and raise that money in an evening; have wine, have steak, have a nice, great big dinner,

raise a lot of money with a few people there. But, by golly, do not go back home; do not be forced to go back to your State and to have a breakfast for $10 and try to get 100 people there so you might raise $1,000 because you can get $1,000 just sitting out there making a phone call. Heaven forbid if we would put that kind of a burden on Senators and Congressmen that they would have to go home and raise money in their home State.

Think of that. Think of how preposterous that would be, to have Senators and Congressmen raise money in their home States.

If we are interested in reform why do we not talk about reform and make Senators and Congressmen raise money in their home States and make them do it from $100 or less and put a limit on that. Limit it to contributions of $100 and you have to raise it in your home State or, if you want, say just raise 80 percent in your home State. That would be reform. I do not see that in this piece of legislation.

I mean, holy mackerel, do not ask me. I mean, I am a Senator. By golly, I want to figure out a way where I can, you know, not spend as much time with the folks to raise money. I mean I am too important. By golly, I mean I am a U.S. Senator, 1 out of 100. This is the most deliberative body and, boy, we are deliberative. We are deliberating on taxpayer subsidies of elections, deliberating, arresting Senators. Boy, this is a great club.

But I mean to tell you: Please, please, I do not want to think that Senators would have to go home and raise money from small donors in their State. I mean, gee, some might not get reelected if we would have to do that. Raise money from their home State? No, I am going to have to set up something where we do not have to spend any time doing that. I will make a few phone calls out here to a few of the political action committees and get a few political fat cats on the phone, have a nice dinner and raise the money and put the ads on TV.

But, come to think of it, I do not want my opponents to be able to raise too much money either, so I will just have a ceiling so I will be here for a long time because this is really a nifty place. I would not dare think of having Senators go home and raise money from their constituency. Mercy, mercy, mercy.

Financial support can be as important as votes. It is a part of the political process, a way for individuals who feel strongly about a candidate to become personally and directly involved. So why are we even thinking about discouraging voters' rights to financially support Senate candidates from their own States? Why would we want to give even more power to PAC's and larger far cats in the fundraising process? Why would we not do something to encourage the small donors?

As I said, why do we not think about reintroducing a tax credit for small donors? In addition, the public is apathetic at best about the thought of financing national elections. Apathetic at best. I would say that they are. And if they really thought that they were going to get hooked for the bill for us running, many of my constituents would be downright hostile. Only a quarter of all the taxpayers check off a dollar for Presidential elections, so why do we suppose they would support funding congressional elections as well?

Mr. President, during this debate I have heard the amount of money we spend on congressional campaigns called a national embarrassment, a national disgrace, a corrupting influence. As a matter of fact, we have even heard worse. But, is there something inherently wrong about spending money in campaigns? The point has been made before but it bears repeating: The amount of money spent to elect the President and Congress in 1984 was less than the amount spent by the Nation's leading advertiser, Procter & Gamble for its products that same year.

Surely educating the electorate about those who make critical national decisions is at least as important as one company's annual advertising budget for soap and toothpaste. We ought to remember that it was James Madison who warned against the "tyranny of factions" and suggested that the best way to avoid such tyranny would be to let them multiply and flourish.

In age of centralization it is important to remember Madison's celebration of pluralism. The tyranny of factions Madison warned us of; and how to make sure that did not happen was to go ahead and to let them multiply. What he was talking about was a few ideas, a few people, a few factions getting ahold of our Government and the future of this country.

Madison was not afraid of competition of ideas. We should not be afraid of the competition of ideas. What is wrong with competition? We have it in the marketplace that produces jobs and opportunity and hope for the future. Why can we not have that kind of competition in the political process? Why do we want to exclude folks from the political process? Why do we want to say no, we want to have our campaigns funded more from the large donors than the small donors? Why is that? Why is that?

Additionally, as de Tocqueville argued, "America was founded as a nation of people who gladly joined in the democratic process." It is precisely this civic involvement and beneficial competition that has allowed our democracy to flourish.

In fact, people will always find ways to express their own self-interest politically, no matter how hard the Congress tries to close off those avenues.

It is not hard to prove that point. Just look at some of the loopholes in existing campaign laws: soft money, independent expenditures, bundling for unlimited private contributions by wealthy individuals. Tried them all. Tried them all.

Some of my colleagues have already pointed out the laws and the public financing schemes that give rise to increasing influence by soft money and independent expenditures.

Professor Alexander has estimated that the Mondale campaign, in spite, or perhaps more correctly because, of the public financing laws, saw between $30 and $40 million spent on his behalf by labor unions in the 1984 election.

I would just point out that the so-called soft money is so pernicious an influence that a 1980 Kennedy School of Government study counseled against public financing. The Harvard study reasoned that public financing in its commitment to spending limits gave rise to and encouraged spending unlimited amounts of money through conduits other than candidate campaign committees.

To make matters worse, the Harvard study concluded, most of the means through which money is now being poured into the Presidential politics are inherently less accountable to the electorate and should not be encouraged by campaign laws.

Mr. President, before we go off on yet another campaign reform adventure we really ought to take a closer look at some of the reasons why our campaigns become expensive. Perhaps the greatest reason for the high cost of elections is something the Senate simply cannot control, the rapid growth in the cost of TV and radio advertising. Both media are central to Senate campaigns. Fifty percent of a typical Senate campaign budget goes toward broadcasting media advertising.

Coming from a newspaper background, I consider myself a newspaperman, that is unfortunately the case and one that I am sorry is fact. Trying to regulate, even to keep costs down, would clearly be unconstitutional. It would be unconstitutional, certainly, to try to limit that.

A second reason for expensive Senate campaigns, ironically, is in the high cost of fundraising, a development that clearly can be traced right back to the stringent limits on contributions set out by our earlier efforts to reform the Federal election process.

Because Senate incumbents and candidates alike are forced to raise smaller amounts of money from more people, the fundraising process has

become both expensive and time consuming. As we pointed out earlier, putting limits on overall spending will simply discourage the solicitation of small donors because of the high costs involved.

Washington Post political writer David Broder concluded that spending limits and taxpayer financing have shut down local campaigning. "Grassroots democracy has died."

But that is all right. We are all in the Senate now. Senators evidently, like it out here. They do not want to have to worry about grassroots democracy. But before we are willing to legislate away grassroots democracy we ought to think about how we got here.

We ought to think about the people that put us here. We ought to think of those folks back home that have worked hard to put us here. If grassroots democracy did not put us here, what did?

Now what we are talking about doing is legislating away grassroots democracy. Let the taxpayers pick it up. Have the taxpayers foot the bill. But we will all talk about democracy. We will talk about the representative form of government that we have. But, boy, let us not have to get back into that thicket of grassroots democracy.

Look at what has happened. Look what grassroots democracy has produced. We want to attempt to legislate it away. It has been argued that one of the reasons that we want to have this taxpayer subsidy subsidizing elections is to spend more time in the Senate or spend more time on the so-called quality of life. I do not know what we would be doing if we did not have this dynamic turkey before us.

Maybe we might be talking about the Federal budget deficit. Maybe we might be talking about education. Maybe we might be talking about the drug problem that infests our constituency in our inner cities. Maybe we might be talking about how we could lower interest rates.

If this is any indication how we are going to spend our time, I am not sure we need more time, spending time on legislation trumped up in the name of reform that has absolutely no chance of going anywhere.

The third reason is the plain fact that a dollar goes about half as far today as it did when we overhauled the political system last time, so it costs more to get the same result.

I also might add that another huge cost in campaigning comes from the so-called consultants. My wife happens to be one of my chief political consultants. Her advice, which I solicit a lot, is free. I do not have to pay for that. But there are a lot of other consultants that you do have to pay for. You have to have your media consultant. Sometimes people think you ought to have a political consultant. And you also need a pollster. We always have to take polls. They are sort of like an addict that gets his fix. That is the way the politicians get their fix. They have to take polls. Those are expensive.

I suppose what we will probably do is in due time let the taxpayers pay for consultants and pollsters, too. I mean, I do not know where this ends. This would be the reform of 1988. I do not know what the reform of 1996 will be like.

Mr. President, the most recent villian in the campaign reform drama is something this body brought into being, the good old political action committee, PACman. That is it PAC's.

Despite the PAC hysteria created by Common Cause and others, however, I think we ought to remember that these political action committees generally represent a wide diversity of interests, and diversity is vital to the democratic process. There are now over 4,000 labor and business PAC's competing for our attention. Our Founding Fathers knew very well that ours is a nation of competing interests, and that is why they set up our federal system based on checks and balances.

Despite criticism that PAC's somehow buy votes, anyone with even a modest knowledge of how Congress works knows it just is not so.

It is ludicrous to think that a contribution from any of the thousands of PAC's could be decisive. More often than not, a candidate or incumbent has received a contribution from a PAC with a competing interest.

PAC money, by and large, is not spent to influence votes. It goes to Senators and Congressmen whose voting records are generally in line with their own interests.

I think it also ought to be pointed out that any attempt in Congress to limit PAC spending, directly or indirectly, is likely to backfire by encouraging these groups to simply switch gears and make independent expenditures in races.

I do not know how often I have heard in this body complaints about independent expenditures. Republicans complain, and Democrats complain about all these independent expenditures.

The problem is that we have a free country and yet what we are trying to do is to limit the political process, limit the political process, rely on major donors rather than small donors, have the taxpayers pick up the tab, and yet there is not anything we can do about independent expenditures.

If a millionnaire wants to come into my State and spend millions of dollars in an attempt to defeat me, he or she can do that. We cannot do a darn thing about it.

So what we would be doing by this bill is taking away a possibility for me to respond to that independent expenditure and the outcome would be that that independent expenditure would have far more clout than it has today. That is the situation.

I do not think I have to remind anyone in this body that the Supreme Court has quite clearly told Congress that it cannot restrict independent expenditures.

Finally, I would note that the Byrd-Boren bill clearly advantages large PAC's with a ready cash flow, because the bill would put a premium on early and large donations. So the first PAC's to contribute would be given more prominence in terms of total contributions merely by virtue of getting there first. Clearly, this is not the desire of those self-styled public interest groups that are pushing the Congress to reform its campaign finance procedure. Nor is it my idea of how to encourage broad political participation.

But as David Broder has said "Spending limits and taxpayers financing have shut down local campaigning. Grassroots democracy has died."

Grassroots democracy has died. We do not want to have to pay attention to the grassroots. We do not want to have to go back to our origins. We do not want to have to go back to our States to raise money from small contributors. We do not want to have to go back and to have $10 events. No. What we want is a big, fat check from the taxpayers, take money from political action committees, rely on the big givers, the easy money.

Well, I suppose that you could say from some of you, not me, some must think that it is far more entertaining, far more exciting, conversation is probably more stimulating, that you learn more at a Washington restaurant with the beef tenderloin and capriole and all the trimmings, in Washington, DC, than it is to go back and to eat at the local restaurant in your respective State and have a chili dinner at $10 apiece and to sit down with the people that sent you here.

Grassroots democracy is dead. Grassroots democracy, the folks that sent us here—let us not forget where we came from. And maybe for some I would concede that fancy dinner in Washington is more fun than the chili dinner at home. Not for me. As a matter of fact, I sort of enjoy going home. I enjoy sitting down with people that can afford to give $10 to my campaign. I will be honest with you. I learn a lot more about life and their problems and the problems and the challenges and the confrontations of life from somebody that can give me $10 than some millionaire that gives me $1,000. I can learn a lot more about the things that are important in life like families, religion, business, neighborhoods, from people back

home at a chili dinner than I can sipping champagne at some big reception in Washington, DC. And yet what we want to do apparently is to make life easy for Senators in the area of fundraising. Do not go to those chili dinners. Do not go to those $10 breakfasts. They are a pain.

They are not a pain. They are an enjoyment. As we try to legislate away grassroots democracy, before we get carried away with too much, we ought to really think about what we are doing.

I know it is perhaps difficult after being up all night, going on another being up all night. It might be difficult. It might be almost out of the question to ask someone to think. Everybody is tired. People's minds are made up. We know how the vote is going to come out. We also know that we can continue to talk and probably hopefully be able to persuade the American public by explaining to the American public what is in this bill.

The American public is probably wondering what is going on besides Senators' being arrested. The public is probably wondering what this great deliberative body is deliberating on tonight in the great tradition of Daniel Webster and all the other great Senators before him and after him.

And the American public is listening to a debate on how the Congress is going to create another entitlement program for themselves. This day and age of megadeficits, one more entitlement program, and as you pass the envelope, let us make this entitlement program for the Congress.

I suppose that this would be somewhat indicative as generations go on. I suppose that this is somewhat indicative of "take care of me first, and we will take care of you next."

This is somewhat indicative that, yes, I better make sure that I get reelected. That is important and how you get re-elected and particularly if we can figure out a way to do it easily because what we do not want to do is we do not really want to have a lot of small fundraisers. We do not want to get a lot of that participation. We want easy street and we want the easy road.

Maybe we ought to put forth a bill that would force a Senator or Congressman to raise 80 percent of his moneys or her moneys from their home State or home district. That would be reform. Only 20 percent would come from outside of the State.

But heaven forbid, we might have to go to those chili dinners. We might have to go to those $10 breakfasts.

I tell you as I examine the priorities of this Senate today it would do us well to go back home and to ask the folks what are the problems confronting this Nation, ask the folks back home the major challenges that confront the Congress.

And I daresay that we would ask the major issues of the day, the taxpayers' opinions of elections, would be a long, long way down the list.

Finally, Mr. President, there are some very serious first amendment questions that ought to be uppermost in our minds as both sides work toward a compromise on this issue.

Since 1976, the Supreme Court has clearly said that both contributions and expenditures are political speech and protected by the first amendment.

Restricting such activities is constitutional only when it is needed to prevent corruption or the appearance of corruption.

The most significant Court case, Buckley versus Valeo, said that limits on expenditures are unconstitutional because they impose direct restraints on the quality of political speech.

But there have been other cases as well where the Court has carefully preserved the rights of political speech when money is involved.

The Court, for instance, has said that while corporate contributions to individual candidates can be restricted, corporate expenditures on referenda cannot.

And, in the FEC versus Massachusetts Citizens for Life, the Supreme Court ruled that nonprofit corporations with ideological agendas can't be barred from contributing to campaigns.

Because special interest groups that incorporate are created to disseminate political ideas—not to make money—their expenditures don't pose a danger to the integrity of the system, the Court said.

Finally, Mr. President, we should all remember what Thomas Jefferson had to say at the founding of our Republic: "* * * To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." And that is exactly what we would be doing should we use taxpayer money to finance our own campaigns.

Mr. President, campaign reform isn't a new idea. The Senate rejected the idea of public financing in the 95th Congress. And the House has rejected the same idea on three separate occasions—in the 93d, the 94th and the 95th Congresses.

So the talk about an "imminent threat" to our system rings just a little hollow. We've been here before. And we've rejected public financing before, and we will reject taxpayer financing again.

The only way to preserve the democratic process and avoid the tyranny that Madison foresaw is to let the factions of society have their say in the process. We should encourage the broadest possible dissemination of political ideas—not repress them.

Mr. President, I have not even addressed the questions raised by the clear advantages given to incumbents by the Byrd-Boren bill. These provisions have been eloquently explored by Senator PACKWOOD and Senator MCCONNELL. I touched on them, but I did not get into them in any detail.

But we should all pay attention to the problems presented to a democratic society whose leadership strives to protect itself. Soon it begins to lose all perspective and become arrogant in its disregard of the needs and desires of the electorate. I would submit that this is one of the great challenges of modern democracy. We should do everything we can to encourage constant renewal in our ranks—lest we sink into the complacency and myopia which leads to a slow erosion of our freedom.

The issue here isn't about who can raise the most money during Senate campaigns and how much is "too much."

The issue is about limiting participation. It's about a fair competition of ideas in a free marketplace.

Let's let the people of this country make their own decisions about political ideas based on the best possible information. I trust them to make the right judgments—just as they have for the last 200 years.

I see my dear friend and colleague from Kentucky is on the floor. Before I yield the floor, I want to first pay my deep admiration for the job that he has done over these months in bringing this issue to the attention of not only his Republican colleagues but the entire Senate. He has performed a very valuable service here in the Senate, and I daresay around the Nation, of telling the American people what is in this bill, what this means for them, what it means for our political system. He has really in fact done a truly remarkable job in this and other areas, but particularly this area. And he has been in the forefront and knows probably more about this legislation than perhaps anybody in the Senate. He is perhaps our most articulate spokesman on why the taxpayers should not have to pay for our elections.

I had intended to, but he is ready to speak, and I want to yield the floor so he can get the floor—I had intended to read a statement of the Honorable Henry Kissinger that he made before the Armed Services Committee today. I really wanted to talk about something far more important than the entitlement programs of Senators and something far more important that confronts this country; that is, where this Nation ought to go in a post-INF environment.

Dr. Kissinger talks about NATO strategy; he talks about INF and NATO modernization; he talks about the future of the Atlantic Alliance; he talks about an arms control policy; he talks about the East-West relations,

and conflicts outside of the NATO area. And I believe it would be important that at least this be inserted in the RECORD. I had intended to read it into the RECORD and to talk about it.

I am far more knowledgeable about the intricacies of the INF Treaty and what we ought to be doing in that than I am about the details of taxpayer financing of congressional elections.

I ask unanimous consent, Mr. President, that a statement of Henry Kissinger made before the Armed Services Committee of the U.S. Senate, Wednesday, February 24, 1988, be inserted in the RECORD.

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

STATEMENT OF HON. HENRY A. KISSINGER

Mr. Chairman, I would like to take this opportunity to sketch briefly the main tasks facing the Atlantic Alliance.

Any discussion of the state of NATO must begin with the recognition that it represents one of the great success stories of the postwar period. For more than forty years Europe has known no wars—the longest period of peace in Europe since the creation of the modern state system. While it is never possible to prove conclusively why something has not happened, the Western democracies have every reason to take pride in their collective achievement.

Success breeds two contradictory dangers however: on the one hand complacency and on the other a temptation to tinker that takes the achievement for granted and seeks to combine it with basically irreconcilable objectives.

The Atlantic Alliance faces both dangers: complacency in the reluctance to come to grips with the major political and technological changes that have occurred; tinkering in the restless quest for negotiating formulae often heavily influenced by domestic considerations that will in the long run undermine the cohesiveness of the Western democracies.

Part of the cause for this state of affairs lies in the failure to resolve contradictions that have beset the alliance since its early days. These contradictions were tolerable so long as the democracies possessed a vast military superiority. But the growth of nuclear stockpiles on both sides and the resulting nuclear balance requires that they be dealt with if the achievements of the postwar generations are not to be jeopardized.

NATO STRATEGY

The present NATO deployment of five American divisions and supporting air and naval forces evolved in the 1950s, when NATO's doctrine was massive retaliation. The strategy then was to react to aggression with an immediate and overwhelming nuclear blow against Soviet territory. From the perspective of massive retaliation this deployment had a political, not a military rationale. On the one hand NATO did not wish to tempt Soviet conventional aggression by doing anything to suggest that a Western response would be limited to nonnuclear means. On the other hand the European members of NATO sought for political reassurance: they wanted to make sure America was organically committed to nuclear retaliation even in the face of conventional aggression. Both European and American conventional forces were conceived as a trip of NATO a full conventional defense has been part neither of its strategy nor of its efforts. A substantial non-nuclear establishment was created nevertheless to give credibility to the nuclear threat.

This situation became precarious when the growth of Soviet strategic forces altered the credibility of the nuclear threat. Yet NATO deployment has been essentially unaffected by the change. NATO has improved its conventional defenses but not as fast as the Soviets have improved corresponding capabilities; hence the gap in conventional forces remains and is perhaps greater than ever. As the current NATO commander made clear recently, even counting the five American divisions that have remained in Europe, the alliance is still unprepared to withstand a major Soviet ground attack for more than a few weeks. Ambivalence continues 35 years after NATO's creation. Our allies remain unwilling to develop forces strong enough to provide an alternative to nuclear weapons; the United States would surely not reintroduce the draft. Yet much of public opinion and many leaders shy away from even thinking about the practicalities of nuclear deterrence. Indeed they constantly affirm the unthinkability of nuclear was while basing their security policy on its deterrent effect.

The need to build up NATO's conventional capability has been passionately affirmed for a long time; for an equal period the goal has proved elusive. This is partly because our European allies have less confidence in conventional defense than some American systems analysts. History teaches them that deterrence with conventional weapons is a chancy enterprise. For hundreds of years Europeans have seen wars break out between armies that were thought to be evenly matched. (Even at the outset of World War II the French army was considered to be—and in fact was—superior in numbers and equipment to the German army.) In conventional war, leadership, concentration of force, and tactics, play a role which make systems analysis calculations a hazardous guide. It can be no accident that all wars in the postwar period have broken out where there were no American forces and no nuclear weapons.

NATO has never solved its perennial problem: the proper mix between conventional and nuclear forces and the appropriate strategy for the use of nuclear weapons albeit as a last resort. The doctrine of flexible response was to resolve these issues. But NATO is still some distance from a conventional capability that could sustain itself for even the thirty days envisaged in some scenarios. And the elaboration of a doctrine for the use of nuclear weapons runs into two obstacles: Some anti-nuclear groups insist that nuclear war must necessarily be all-out extermination of civilians lest governments be tempted into nuclear adventures. Some of our allies start at the opposite end of the political spectrum but reach the same conclusion: that anything less than the threat of all-out war would weaken deterrence.

However, statesmanship and morality both demand that so long as nuclear weapons exist governments seek ways to limit their use and to terminate any war before it turns into a world holocaust. In a world of tens of thousands of nuclear weapons, it is reckless to teach that any nuclear incident must automatically escalate into a cataclysm. If the worst happens—for whatever reason—governments have an obligation to humanity and to history to limit the consequences. Only nihilists or abstract ideologues can shirk that duty.

The situation is made more complex because in nearly every NATO country the consensus on defense and foreign policy has broken down. As a result, national security policy is too often overwhelmed by domestic politics. The result has been an unworthy debate in which for example the recent American proposals on modernization are presented by critics as a means of shifting the risks of nuclear devastation to Europe.

Competitive avoidance of nuclear risk cannot possibly be the basis of NATO strategy. It is essential to develop a strategy that distributes risks equitably but effectiveness must be the ultimate outcome. This is why the issue of modernization should become the occasion for a careful and bipartisan reappraisal of NATO strategy and arms control policy. Otherwise the Alliance will be left with a precarious combination of the formal NATO doctrine of flexible response which, however, now has to be applied under conditions of nuclear stalemate, growing nuclear pacifism, a subtle Soviet strategy to separate the US and Europe—especially in the nuclear field—and continued inadequacies in conventional forces.

INF AND NATO MODERNIZATION

Divisive trends have been magnified by the INF agreement. This is not the occasion to analyze the merits of what will soon be an accomplished fact. If the Senate were to refuse ratification, domestic pressures in all European countries would force the withdrawal of these missiles in any event. The current choice is between unilateral withdrawal or the quid pro quo envisaged in the agreement.

To understand the impact of this state of affairs some discussion of the background of INF is important. The formal justification for INF as a counterbalance to the Soviet SS-20's was always a mistake and led directly to the so-called zero option. The INF weapons were never aimed at the SS-20's. Their ultimate justification was to prevent the nuclear blackmail of Europe by linking the strategic defense of Europe with that of the United States. With intermediate range American weapons in Europe the Soviets could not threaten Europe selectively; any nuclear attack and any successful conventional attack would trigger an American counterblow from European installations since the Soviets would have to calculate that the United States would use its missiles before they were overrun. Hence the Soviets would have to attack the missiles if they used even conventional weapons in Europe; that in turn would trigger a counterblow on Soviet territory. Were the war confined to Europe this would inflict an unacceptable level of damage on the Soviet Union. But the Soviets could escape this challenge only by initiating general nuclear war against U.S. territory—a decision out of proportion to any likely objective. Hence the defense of Europe and the U.S. were "coupled."

INF in short was a reassurance for defense-minded Europeans that America would use its nuclear capability on behalf of Europe's survival. But the defense-oriented leaders in Europe faced bitter opposition. In the end the INF missiles were introduced only after riots and demonstrations that shook the domestic tranquility of many countries for months. It is impossible to understand the psychological impact of the INF agreement without considering what the current leaders went through when the missiles were installed.

The NATO challenge can thus be summed up as follows:

The INF agreement and the pressures it generates against the remaining nuclear systems places the predominant burden of nuclear defense on weapons based in the United States or at sea.

In the process, many Europeans are convinced a gap is being created that in time will enable the Soviet Union to threaten Europe while sparing the United States. In technical terms, the defenses of the two sides of the Atlantic may be "decoupled."

This fear is all the greater because the Soviet conventional superiority has not been reduced. The threat that generated NATO in the first place remains intact.

The modernization of NATO's short-range nuclear weapons must be seen in this context. The Atlanticists in the Federal Republic have been traumatized by the removal of intermediate range weapons. They fear another change in American position while the critics of U.S. policy feel confirmed in their view. Both now tend to unite against a scheme that can be represented as making Germany a nuclear battlefield. Sentiment is therefore being generated for the removal of these missiles—the third zero option. And modernization of short-range weapons is likely to face the same domestic opposition as the intermediate range weapons a decade ago.

On the other hand, the denuclearization of the Federal Republic—the nearly inevitable consequence of the third zero option—would create profound splits in the Alliance. A nuclear free zone logically implies the adoption of a "no first use" concept, because otherwise the zone would still be under nuclear threat from weapons outside. And once the Alliance has proclaimed that it would not use nuclear weapons first, it is committed to accepting defeat with conventional weapons rather than escalating to nuclear war. Once the principle of defeat is accepted the neutralization of Central Europe, the goal of Soviet policy for 40 years, will be nearly complete. The nuclear armed members of NATO would be asked to assume risks on behalf of the Federal Republic which that country is not prepared to run for itself—an impossible state of affairs.

THE FUTURE OF THE ATLANTIC ALLIANCE

A single statement can do no more than outline directions. A complete policy must emerge out of a detailed debate within the United States as well as within the Alliance. But restoration of the unity of the Atlantic Alliance must be a prime objective of American foreign policy; without it a continuation of current East-West negotiations will lead to the unravelling of all that has been achieved by forty years of bipartisan foreign policy.

a. A coherent NATO strategy

The ambiguities that have beset NATO for forty years—some of which have been outlined above—must be overcome. On the part of the United States it requires an end to the rhetoric that America's goal in East-West negotiation is the total elimination of all nuclear weapons. Such a goal is neither possible nor desirable and Western leaders do their publics a disservice if they shrink from avowing this truth. Tens of thousands of nuclear weapons have been produced by the superpowers; hundreds by medium-sized countries; dozens by recent entrants into the nuclear club. No scheme of disarmament could account for all these weapons. Nations would insist on residual forces to protect themselves against cheating, or against the fact that the factories that produced the weapons would remain, or, should by some improbable chance these too be destroyed, against the knowledge in the minds of men from which these factories and weapons sprang in the first place. Mankind cannot unlearn the secret of the atom. For the immediate future—even assuming foreseeable reductions—that level will remain quite high; the real issue before us will be the nature of deterrence, and its components.

At the same time our European allies have an obligation to face strategic and technological realities. Too many of them create the impression that deterrence can be separated from defense and that it depends entirely on the vastness of the threat. But deterrence in fact is the product of the threat and credibility. If credibility is zero even the most devasting threat will amount to nothing. Europe has a right to insist that the United States use all the means necessary to stop Soviet aggression. It can have no interest in a strategy that has the end of all civilized life as its inevitable corollary. The elaboration of other options is in the interest of both sides of the Atlantic.

It is therefore urgent to end the demoralizing debate over which side of the Atlantic is seeking to escape what risks and responsibilities. The goal must be an effective defense at tolerable cost. The deterrent threat cannot be separated from what the Alliance is prepared to implement without opening a psychological gap which sooner or later will tempt aggressive conduct.

b. Arms control policy

The idea of arms control is novel, if not revolutionary. Developed in its present form in the 1950's arms control strove explicitly for stability by reducing the incentive for surprise attack not through arms but through agreement. The historically extraordinary notion emerged that a country's vulnerability was a strategic asset; with the civil populations of both sides at risk—so the argument ran—neither side would dare to launch its weapons. Arms control theory contributed—in the West—to an aversion to defensive weapons; it also caused every offensive system to be subjected to extended scrutiny lest it somehow "destabilize" the military equation. Never before in history had military policy been judged by such criteria; the Soviets for their part have shown no such inhibitions in their unilateral weapons decisions.

This is not the place for an analysis of arms control theory which included many valuable and indispensable insights. However, arms control, to be effective, requires an unusually delicate understanding of the elements of strategy. Nations had often suffered catastrophe in the past even when they fancied themselves superior; negotiating equality with an adversary calls for an unprecedentedly sophisticated analysis. The measurement of equality has been maddeningly complicated by the novelty of the weapons, by the asymmetry in the design of the weapons systems of the two sides, in their geostrategic positions and in the unpredictability of technological developments. Thus even were the Soviets ready for a serious effort, negotiations would be difficult because the weapons of the two sides are designed by different criteria and serve different strategic ends.

Since its early days, arms control theory has developed a life of its own. It used to be argued that arms negotiations should be an essential complement to broader strategic and foreign policies. Today the tail comes close to wagging the dog. Care must be taken lest esoteric arms control schemes become an end in themselves thereby eliminating any relationship to defense strategy.

The issue of NATO modernization illustrates the point. Before the INF agreement modernizing the Lance weapons stationed in the Federal Republic was considered an internal NATO matter not subject to international discussion. The INF agreement has turned it into an East-West issue. Modernization is opposed by the Soviets with the argument that it violates the non-circumvention clause of the INF agreement. And it is opposed by significant segments of German political opinion because it allegedly singles out the Federal Republic for nuclear risk. The so-called "compromises"—linking modernization to some new arms control measure—nevertheless accept the principle of denuclearization of the Federal Republic; the controversy concerns the price.

All this repeats the INF experience. None of the schemes account for the fact that the Soviet Union as a nation state will retain the capacity for nuclear threats while NATO as an alliance in need of 16 sovereign decisions gradually loses that capacity as nuclear weapons are being delegitimized while the conventional inferiority remains. Even assuming full compliance with foreseeable agreements the Soviet Union will always retain categories of weapons on that part of its national territory outside the agreement from which it can launch a threat to Europe. But the removal of categories of weapons in NATO denuclearizes nations—not parts of a national territory. Hence it throws an increasing burden of decision on the United States and elaborates different perspectives between the US and Europe and between the nuclear and non-nuclear countries within Europe.

This is all the more worrisome because NATO depends on nuclear weapons more than the Soviet Union. Finally, large reductions in START work against the discriminating use of nuclear weapons and hence underline the declining credibility of the threat of general nuclear war at a time when the INF negotiations force ever greater reliance on a nuclear strategy founded on weapons based in the United States or at sea. In short, arms control policy and alliance strategy must be brought into harmony lest they paralyze each other. Or else arms control becomes a device by which the Soviet Union gains a veto over Western defense policy without meaningful reciprocity.

c. A larger role for Europe

In the early days of NATO the United States had first an atomic monopoly and later a huge nuclear superiority coupled with economic predominance. It was inevitable in these circumstances that the Alliance structure came to be dominated by America. But since then Europe has recovered economically and restored some of its military strength. Britain and France have developed nuclear forces of their own. In the process, existing arrangements have become unbalanced. When one country dominates the alliance on all major issues—when that country chooses weapons and decides deployments, conducts the arms-control negotiations, sets the tone for East-West diplomacy and creates the framework for relations with the Third World—little incentive remains for a serious European effort to redefine the requirements of security or to coordinate foreign policies. Such joint efforts entail sacrifices and carry political costs. Leaders are not likely to make the sacrifice

or incur the cost unless they feel responsible for the results.

An imbalance such as the one now existing cannot be corrected by "consultation," however meticulous. In the long run, consultation works only when those being consulted have a capacity for independent action. Then each side takes the other seriously; then each side knows that the other's consent has to be won. Otherwise consultation becomes "briefing." Agreement reflects not conviction but acquiescence for want of an alternative.

Moreover, military dependence on another nation has a cumulative impact. When dependence no longer results from wartime destruction but from a policy choice, made under conditions of relative prosperity, it can breed guilt, self-hatred and a compulsion to display independence of the senior partner wherever doing so is safe, especially with regard to some Third World issues, the Middle East and certain aspects of East-West relations.

For all these reasons the United States has a positive interest in encouraging the evolution of a more autonomous European voice in security matters. During the entire postwar period it has been an axiom of American policy that for all the temporary irritation it might cause us, a strong, United Europe was an essential component of the Atlantic partnership. We have applied that principle, insofar as it depended on American actions, in all areas except security. With respect to defense, the US has been indifferent at best—at least since the failure of the European Defense Community in 1954—to any sort of Europeanization. Many seem to fear that a militarily unified Europe might give less emphasis to transatlantic relations and thus weaken the common security.

The opposite is almost certainly the case. In the economic field, integration was bound to lead to transatlantic competition, even to some discrimination. What defines a Common Market, after all, is that its external barriers are higher than its internal ones. In the field of defense, by contrast, increased European responsibility and unity would almost certainly promote closer cooperation with the US. A Europe analyzing its security needs in a responsible manner would be bound to find association with the US essential. Unity in defense matters would also enable the Federal Republic to escape the fear of isolation and enable the Atlanticists to resist nationalist tendencies.

Greater unity in defense would also help to overcome the logistical nightmare caused by the attempt of every European nation to stretch already inadequate defense efforts across the whole panoply of weapons. For example, there are at least five kinds of battle tanks within NATO, different types of artillery and different standards for calculating the rate of consuming ammunition. In a major conflict, it would be a herculean task to keep this hodgepodge of forces supplied.

Thus the paradox: the vitality of the Atlantic Alliance requires Europe to develop greater identity and coherence in the field of defense. I am not talking about traditional "burden sharing", paying more for the existing effort. I have in mind something more structural—a more rational balance of responsibilities. The present allocation of responsibilities fails to bring the allies to reflect naturally about either security or political objectives. Everyone has been afraid to take the initiative in changing the present arrangement, lest doing so unravel the whole enterprise or antagonize the United States. There is no foreseeable East-West conflict in which Europe will not be better off with American support. This is why, if the British and French can agree on coordinating their nuclear forces, the United States should encourage it as an important first step toward a greater European role in the joint nuclear defense. Above all the United States should make clear that European union on defense matters will be viewed as strengthening not weakening Atlantic ties.

EAST-WEST RELATIONS

Too many in the West seek to escape their dilemmas by taking refuge in the personality of Gorbachev. Without entering into the debate as to the long range purposes of the Soviet leader, the democracies cannot make themselves dependent on a single personality, especially as every Soviet leader except Lenin has been disavowed by his successor.

Gorbachev's personality is no doubt striking. But is it wise to treat his person as the deus ex machina to solve all the West's dilemmas—a communist leader who will bring peace and tranquility without any real effort on the part of the free countries? Do these attitudes do justice to the actual choices facing the Soviet leadership? It is easy to forget that Gorbachev has emerged at the top of what must be the toughest competition in the world—one in which losers are rarely heard from again. He has never wavered from basic communist doctrine. And how could he, never having held any position other than as a member of the communist hierarchy?

Reality no doubt imposes at least a respite on Soviet foreign adventurism, perhaps even an end to it no matter who governs in Moscow. But Gorbachev, as any prudent leader, is unlikely to court unnecessary domestic problems. He will not volunteer changes in political and strategic arrangements that powerful factions within his bureaucracy would find unpalatable. Obviously, he will push those programs most advantageous to his own country.

More fundamental issues must be addressed. What exactly is it that the West wants the Soviet Union to stop doing? What is the American and Western notion of cooperative conduct? In the contemporary situation is glasnost or human rights progress enough, or are other changes necessary? Can four centuries of Russian expansionism be due to personalities, or do they reflect more permanent geopolitical and strategic elements? The absence of criteria causes domestic disputes to fester. The reluctance to endow peaceful coexistence with political content produces an overemphasis on numerical nostrums and threatens to open up a gap between strategy and arms-control policy in which each checkmates the other.

I do not know how Gorbachev would react if presented with a comprehensive program that would reduce nuclear and conventional weapons simultaneously. Or how he would respond to a serious attempt to discuss the US-Soviet role in the world a decade or so ahead of us. I am convinced that he has the intelligence and imagination to make a significant and constructive response. And if he refused, we would at least understand the nature of the challenge better than we do now.

CONFLICTS OUTSIDE THE NATO AREA

The North Atlantic Treaty Organization was a response to the fear of Soviet aggression against Europe. At that time, 40 years ago, the United States had a huge nuclear superiority and was dominant economically, while Europe was only beginning its recovery from the war. Conflicts outside Europe were produced by the process of decolonization; the Soviet role in them was relatively minor. The United States, reluctant to be involved in colonial wars, insisted that the obligations of the Atlantic Treaty did not extend outside of Europe.

Since then, conditions have changed dramatically. Europe has recovered its economic dynamism and is moving, although fitfully, toward political unity. The fear of Soviet invasion has diminished. American nuclear superiority has been replaced by rough parity with the Soviet Union, and European allies increasingly question the credibility of the nuclear deterrent.

But on the issue of relationships towards third area conflicts the early problem remains almost unchanged, although the two sides of the Atlantic have exchanged their roles. Now it is Europe that insists that the treaty's obligations do not extend to the developing world. And it is Europe that feels free to dissociate itself from US actions where indigenous upheavals and Soviet efforts to outflank the alliance produce contemporary crises.

That process of dissociation has been accelerating for at least 15 years. During the 1973 Israel-Arab War, Britain and West Germany refused to grant the US permission to use American bases for reconnaissance—or blocked American arms shipments to the Middle East from their territories. Allied governments almost unanimously opposed American policy toward Iran during the hostage crisis, on Central America and Grenada. To be sure, cooperation in the Persian Gulf has been much better. But as Europe develops its own autonomy explicit arrangements for third area conflicts and tolerable dissociation become more important. The Alliance will be weakened if interests considered vital by one partner are consistently neglected by the other.

CONCLUSION

This is a vast agenda. And it cannot possibly be accomplished except in a bipartisan setting. The national security interest of the United States does not change every four or eight years. That possibility makes us a factor of instability. Weapons decisions, arms control strategy and serious diplomacy have a lead time longer than the term of office of a single Presidency. There will always be disagreements over tactics; but the fundamental issues must be settled. It should be the highest priority of a new Administration and of both sides of the Congress.

Mr. QUAYLE. Mr. President, I have said about all I am going to say tonight. There will probably be another time to speak on this or another couple of times. I have a lot more information to share. But as I said, I am going to yield the floor. Again, I certainly want to congratulate my dear friend from Kentucky. He is a dear friend, and even though we are competitive in basketball and other things that spiral across the river—and speaking of across the river, places like Jeffersonville, the Red Devils.

I believe the Red Devils, of Jeffersonville, all those that probably the Presiding Officer does not know about—the importance of Jefferson

High School and the Red Devils. If he wants to find out, he can ask me sometime or ask the senior Senator from New York. He can tell you of all those fond moments down there in Jeffersonville, IN, as they looked across the river, and we looked sometimes I might have to say to my dear friend maybe with disdain. But even though we did that from time to time in our little Hoosier hospitality, to our dear friends from Kentucky——

Mr. McCONNELL. Would the Senator yield on this most important matter that he raised at the conclusion of the speech?

Mr. QUAYLE. I am glad to yield without losing my right to the floor to my dear friend from Kentucky.

Mr. McCONNELL. Was it the Senator's position that the Indiana University was playing basketball this year?

Mr. QUAYLE. We have a team called Purdue in West Lafayette. Purdue as a matter of fact has done quite well. As a matter of fact, it has even done quite well against Louisville, and unfortunately from my viewpoint Indiana. But I want the distinguished Senator from Kentucky to remember where Purdue comes from. It is not just an engineering school. It is that too. It is a great engineering school, a land grant college, one of the first very, very fine schools. But this year I will have to confess that they are taking over the Hoosier tradition and I say that in the general sense of the whole State, not confining it to Bloomington, IN. And I daresay that we might be out in, what is it, Kansas City, MO.

Mr. McCONNELL. Kansas City.

Mr. QUAYLE. I do not know how Syracuse is going to be doing this year or any of the other schools from that State. How is University of Kansas doing?

Mr. MOYNIHAN. Would my friend from Indiana yield for a comment?

Mr. QUAYLE. I am glad to yield for a question without losing my right to the floor.

Mr. MOYNIHAN. I will comment only as the Senator from Texas might say. "I don't have a dog in this particular fight," but I wish it to be understood that any time I am on the floor I wish to join the Senator from Indiana in speaking on unending affection for and pride in the Red Devils of Jeffersonville High School in Jeffersonville, IN.

Mr. QUAYLE. I thank my colleague.

Mr. MOYNIHAN. It was intended to indicate great enthusiasm for the team.

Mr. QUAYLE. I will tell my friend from New York, they have not forgotten you there. As a matter of fact, I remind them that sometimes if they really might need some help, and I might not be able to provide it, that they have a third Senator from Indiana that comes from Jeffersonville and Clark County that I might say is somewhat overwhelmingly a Democratic constituency of mine, though they are trying to do better. So I use his name sometimes down there to sort of let them know, you know, they can talk to me, too. But the Senator hails from that area of the Red Devils. We take note of that.

Mr. President, with that and having noticed that the Indiana-Wisconsin game started at 8 p.m. on channel 50, I shall with enthusiasm relinquish the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Kentucky.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Before the Senator from Indiana leaves, I would note that he answered the Senator from Kentucky's question about whether or not the Indiana University was playing basketball this year with the speech about the virtues of the Purdue team. We have experienced the agony of defeat against Purdue, the University of Louisville has. But I would respond that the University of Kentucky is in the top 10 and we expect both Louisville and Kentucky to be headed toward Kansas City and we hope to see the Senator there.

Mr. QUAYLE. Will the Senator yield for a question?

Mr. McCONNELL. I am happy to yield to my friend from Indiana.

Mr. QUAYLE. We will see whoever we see there. We intend to make it.

I will say one thing, that it appears you may have drafted one of our better basketball players this year, our standout from Richmond, IN, who somehow I think signed up to go to the University of Kentucky. He was in the running for Mr. Basketball of Indiana, I might add, but now it has publicly come out that he is contemplating and, as a matter of fact, I think he might have even signed a letter of intent to go to the University of Kentucky down in Lexington, or somewhere in the vicinity.

Mr. McCONNELL. Yes, that is the place.

Mr. QUAYLE. Across the river. As at least Senator MOYNIHAN and I know, it is across the river somewhere. We are exactly sure where that location is, but we know that it is across the river and that is good enough for us to be against it.

(Mr. PRYOR assumed the Chair.)

Mr. McCONNELL. I thank my friend from Indiana for his kind observation about the Senator from Kentucky on this issue and his kind observations about our respective favorite basketball teams.

Mr. President, I think, as we look at this issue seemingly on and on, it is important to note those areas of agreement. The so-called group of eight has met twice and, as the Senator from Oklahoma, Senator BOREN, and I pointed on the floor of the Senate I believe yesterday, there were substantial areas of agreement—areas of agreement that would be almost any standard add up to a significant campaign finance reform bill.

The group of eight, for example, was unanimous in desiring to do something about the millionaire's loophole, something that the distinguished Senator from New York is concerned about and something we have talked about on frequent occasions. The Democratic members of the group of eight agreed to a suggestion that I had made and discussed again with my friend from New York recently that we simply make it impossible for someone who puts his own money or borrows money and puts it into a campaign in the effort to buy public office to retrieve it. That was an area of agreement by the group of eight.

The group of eight agreed that it was not fair not to have disclosure of so-called soft money. And certainly that was a step in the right direction. We did not agree on the limitation on soft money contributions but at least disclosure moves us in the right direction.

We agreed on the need to provide a meaningful broadcast rate discount on television time. We agreed on a variety of different efforts to limit as much as you can, consistent with the Constitution, independent expenditures, and we agreed on an effective provision to prohibit bundling.

So, Mr. President, we really came a long way toward writing the kind of bill that could go through this body 90 to 10 and truly be a bipartisan campaign finance reform measure. But apparently it is not going to happen. It is not going to happen, Mr. President, because we have broken down over one fundamental issue, and that is the question of whether it is appropriate to put a limitation on the number of participants one can have in running for the Congress.

Because, after all, Mr. President, that is what a spending limit is. It is saying to a candidate, "You can only have this much support and no more." To us, that is a very fundamental question. It is saying, "You can't have any more support than just this much." It is to us not a negotiable item and it is upon this point that the negotiations have broken down and it is upon this point that it appears that this debate will end for this year.

With regard to the events of last night, I think, without belaboring it too much, my friend from Pennsylvania, Senator SPECTER, had done an excellent job, it seems to me, in laying out the various legal arguments which

could be made with regard to the activities of last evening in arresting and bringing to the floor absent Senators. There is really not much I could add to what the Senator from Pennsylvania said other than to make the point that it seems to me quite sad that we have deteriorated to that level here. We operate with a great deal of comity. We make a real effort, even when we are disagreeing totally on issues, to smile at each other and refer to our colleagues as "my friend from" and it has a way of taking the edge off.

But it seems to me last night we went too far, and I hope that we are not going to see further such activities. It has a way, I think, of poisoning the well, turning us from frustrated to angry. It seems to me it adds nothing to the proud history of this institution. So I hope we will not have any more of that.

Mr. President, I want to take a few moments to summarize some points that I made the other day about the Presidential spending system, but first I want to comment on what I heard the Senator from Indiana, Senator QUAYLE, talking about in trying to explain to his 11-year-old what was going on here in the Senate. It is pretty difficult to explain what we are currently engaged in.

I called my 15-year-old, who is at home tonight doing her homework, I hope, and explained to her what we were doing. This is a kid, I might add, Mr. President, who since age 6 has been able to name all of the President's first, middle, and last name and in chronological order; a kid who has some considerable interest in the process, but did have, I think, some difficulty with the filibuster.

I explained to her that in the U.S. Senate this is the way we protect the rights of a relatively determined minority when it can get up into the midforties and this was part of the tradition of this body and that we were protecting a most basic right in the process here—the right, as we see it, for as many people as possible, provided the contributions are limited and fully disclosed, to participate in the political process; to encourage the candidates to go out and get just as many of those folks as they can, just as many as they can.

So I hope that my daughter will understand this exercise and wish her well on her homework. I suggest that she go to bed shortly because her father is going to be here for a while.

Mr. President, in looking at the Presidential system, some have said, "Why talk about the Presidential system? We are here debating and discussing campaign finance reform for congressional races."

Well, the reason it is important to look at the Presidential system, Mr. President, is that that is the example we have before us. That is the example we have before us of spending limits and public finance. We tried it in 1976, in 1980, in 1984, and we are trying it in 1988. This is our fourth Presidential election with this system. We have tried it out and now we can examine how it has worked. And the reason we ought to do that is because what we are contemplating here is applying a similar approach to congressional races.

Now let me first say, Mr. President, before I go into describing how the Presidential system has worked or failed to work, I think it is a reasonably conservative estimate that if we applied a system of spending limits and public finance to 535 additional races—100 in the Senate and 435 in the House—that the FEC would shortly be bigger than the Veterans' Administration. That is about how many employees it would take to police all of these restrictions on the rights of people to participate in politics.

So let us take a look at what happened over the last three Presidential races. What was the cost to taxpayers? So far this year, looking at the 1988 election, in the last 2 months alone the taxpayers have coughed up $40 million. Looking at the last three Presidential elections—1976, 1980, and 1984—over one-third of a billion dollars, tax dollars—tax dollars—coughed up to pay for the Presidential races. We have had a proliferation of what some would argue are extremist candidates.

Now in this country you have got a right to run for public office no matter how outrageous your views. We fought wars over that concept. But one could suggest that you might draw the line before you let the public fund such races.

Lydon LaRouche got a half million dollars in 1984, tax dollars, public money. And this year that great American from the State of New York, a household word around the country, Lenora Fulani has gotten $200,000 of the public's money. Now I know since she is from New York she must be a great New Yorker and a great American, but we are wondering about the Lenora Fulani campaign.

The big news of the 1988 elections is, of course, that Lenora Fulani has thrown her hat in the ring. She is the nominee of the New Alliance Party. We are all familiar with the New Alliance Party.

And other big news is that she just got, as the Senator from Kentucky said earlier, $200,000 of the taxpayers' money to do it from that wonderful system of spending limits and partial public financing that some would like to extend to congressional elections.

Now, a word or two about Candidate Fulani. Ms. Fulani has never held political office before. In fact, she is a psychologist. But that means she ought to know what the people of the country are thinking. So I would like to wish her the best of luck, and I hope that she gets the most out of these taxpayer dollars.

There is only one problem, Mr. President. Ms. Fulani is not planning to win. In fact, right in her campaign literature she says she does not even want anyone to vote for her.

Now, this is an odd candidacy indeed, Mr. President. I thought I had seen it all over the years. I know the folks who ran for jailer in Letcher County and constable in Grayson County. We have got some interesting characters in my State that run for public office. I cannot ever recall any of them announcing and saying do not vote for them.

Her campaign is not even called Fulani for President. It is called Lenora B. Fulani's Committee for Fair Elections.

If you are a little mystified, Mr. President, so am I. What does the Fulani Committee want if it does not want your vote? According to the campaign literature, what the Fulani Committee wants is your money. What the Fulani Committee wants, Mr. President, is your money.

Why? Because, as one Fulani flier boasts: "Every dollar is worth two." What a wonderful concept. I bet that most of our taxpayers would like it if every one of their dollars was worth two.

But what wonderful financing miracle is available only to those who say they want to be President. What is this thing? Apparently, however, this two-for-one deal is available even if you do not want to be President.

The Lenora B. Fulani Committee for Fair Elections is not a Presidential campaign, it appears. Instead, according to its own literature, this committee was set up to "create a lobbying presence in the very center of the Presidential campaign." Its object, Mr. President, is not to win but bring issues to the forefront. Thus, Ms. Fulani is not only a great American, she is a shrewd American. She has figured this out. Ms. Funali is using this two-for-one cash to fly around the country following the real Presidential candidates around and lobbying them on the opinions of her group.

As her flier explains, this lobbying for democracy concept has yet another benefit. "Run as a Presidential campaign, every dollar we raised is matched by the Federal Government."

Now, every citizen has a constitutional right, and it is an extremely important right, to try to meet and talk with candidates for public office about their views and concerns. But, Mr. President, it is only in this wonderful Presidential system, that some in this body would like to extend to Congress as well, that folks can tap the taxpay-

ers' pocket to spread any view or idea they have, whatever they want. We will just have the taxpayers foot the bill.

Mr. President, I can confidently predict that there will be a lot of great Americans, just as shrewd as Lenora Fulani of New York, who, if they look in the mirror in the morning, saw a Congressman or a Senator and said, "by golly, I think I see a Senator in that mirror. I am going to go out and file for public office and get me some of that tax money to expound my particular point of view."

Well, Mr. President, there is not any question that there would be a proliferation of such candidates under any system that provided the opportunity to dip into the pool of tax dollars to run for public office. I do not think we want to do that, Mr. President. I do not think we want to imitate the Presidential system.

Let us take a further look at what has happened over these last three elections for President. One out of every four campaign dollars has gone to lawyers and accountants. The first thing you do when you run for President is you bring in your lawyers and accountants. You are going to have to pay them a lot to keep you straight or tell you how to keep straight and play by the rules. And they are the big winners in this process.

Take the 1980 Presidential race as an example: $21.4 million spent on compliance alone. That is more than the most expensive Senate race in history; $21 million to the lawyers and accountants, Mr. President. They really love this law.

Some campaigns, I cited one the other day, one of the campaigns this year for President, processes each contribution through 100 steps to try to comply with the myriad of requirements and I expect all the campaigns go through some similar procedure.

Why, the political decisions have become the accounting decisions. That is how it is working out. This was a system designed, if we recall, Mr. President, to put a limit on spending and provide a partial public finance. What has happened? Why, since we have had this system of spending limits there has been an unprecedented growth in campaign spending. If that sounds like an oxymoron, let me repeat it. Since we have had spending limits, we have had an incredible increase in spending. Overall spending now is increasing at the same rate as before spending limits and taxpayer financing. The difference is that far more spending is now done outside of legal limits and disclosure requirements so there is less accountability. Put a limit over here and it pops out over here.

This law has been about as effective as prohibition, Mr. President. About as effective as prohibition. That is how we were going to wipe out the demon rum, if you recall.

What else has the Presidential system done? Well, it has had a really marvelous effect on all the candidates of both parties. Every single major candidate since 1976 has been cited for serious violations of the law. He has gotten bad press and large fines and, in fact, it has made every candidate a cheater. We created a system here that has made everybody running for President of the United States a cheater.

It is a sad commentary on a disasterous law. One candidate in 1984 spent $2 million in a State with a $400,000 limit. His campaign manager admits it somewhat proudly, I suppose, because the game is to get around the rules, not to comply with them.

Then there are delegate and precandidacy commitments. Why, their loophole is big enough to drive a truck through, Mr. President. Conduits of millions of dollars, millions of dollars of outside spending and outside contribution limits.

Corporation and labor unions have circumvented limits by paying office rents and phone deposits and giving overly generous loans. All this, Mr. President, I am describing is the great progress we have achieved in this country under the Presidential system of spending limits in public finance which we seek to emulate if we pass it.

What else have we got with the Presidential system? Well, we have gotten a growing disrespect for law and the election process. Campaign managers candidly report that the first planning priorities are to identify in advance ways to circumvent limits and rules. A respected observer and campaign staffer declared, "This whole FEC thing is a sham. It is your job to find every loophole."

What has happened to special interests under the Presidential system, Mr. President? If the American people have any interest in campaign finance reform at all, and I would question whether they do outside of Common Cause—if they have any interest at all, it is related to the influence of special interests. That is why the Senator from Kentucky and others have suggested that we eliminate political action committee or PAC contributions altogether. But let us see what has happened to special interests in the Presidential system.

In the 1984 general election, special interests spent $25 million to oppose President Reagan. Sixty-two percent of Reagan's $40 million spending limit; 62 percent of the President's spending limit was spent against him by special interest groups in the general election. Nearly half the money spent in the 1984 general election, $72 million, was outside the candidate's direct control. At least one-fourth of all money spent in Presidential races today is unreported, unlimited, and unaccountable. Soft money spending is roughly tripling each election cycle. Races resemble uncontrolled corrupt politics of the pre-reform era.

What has happened to voter turnout? Why, it is down. It was 55 percent in 1972; down to 53 percent in 1984. Clearly it has not had much of an impact on voter turnout at all. It has actually gone down. And the quote a number of speakers have used, including myself last week—David Broder, he is quite possibly the most respected writer about politics in the country, said "Spending limits and taxpayer financing have shut down local campaigning. Grassroots democracy has died."

A number of speakers, Mr. President, have said the campaign finance system is a scandal waiting to happen. I would most respectfully suggest, Mr. President, the scandal waiting to happen is in the Presidential system not in the congressional system. That is why the scandal is waiting to happen. That is where the lawyers and accountants are getting all the dollars. That is where the candidates are spending all their time to get around ridiculous limitations on their right to express themselves. We have created a monster and the last thing we ought to do, Mr. President, is make that monster even bigger by extending it to 435 additional races, by publicly funding the Lenora Fulanis of the world, by creating a FEC as big as the Veterans Administration. My goodness, that is the last thing that we want to do.

The Kennedy School of Government at Harvard, which a number of us have quoted over the last week, is really a good source for drawing some conclusions about how the Federal system has worked.

In 1982, our own committee here in the Senate on Rules and Administration asked the JFK School of Government at Harvard to study the post-Watergate campaign finance reform and recommended changes. This is what the study group concluded and reported to the Senate Rules Committee.

First, the JFK School said, among the problems of the post-Watergate reforms the most troublesome are related to the attempt to restrict the money spent in Presidential campaigns. Candidates are not allowed to spend enough money, and the expenditure limits have spawned a whole series of serious problems of definition, allocation, and enforcement.

On the other hand, the effort to control total spending has not succeeded. Those involved in Presidential politics are able to raise and spend unlimited amounts of money through conduits other than the candidates' campaign committees.

To make matters worse, the Kennedy School said:

Most of the other means through which money is now being poured into Presidential politics are inherently less accountable to the electorate and should be encouraged by the campaign laws.

Mr. President, this is the JFK School of Government at Harvard:

Thus, our most important recommendation is to eliminate the limitations by expenditures made by the candidate. Spending limits have proved undesirable for a variety of reasons.

And the Kennedy School listed them.

First, the spending limits failed to equalize resources of different candidates. The spending limits failed to curtail the growth of money in Presidential politics. The spending limits failed to shorten the overall length of campaigns.

The spending limits failed to reduce the emphasis on early primaries. The spending limits intrude unduly into campaign strategy. The spending limits created thorny problems with arbitrary definitions, creative accounting, and entangled enforcement and finally and most importantly, the spending limits fostered disrespect for the law.

The Kennedy School of Government report went on:

A more serious consequence of the growth of money in Presidential elections has been the effort by political forces to expand the flow of money outside the constricted budgets of the actual contenders. These funding sources are all less accountable to the electorate than are the candidates. This constitutes a failure of the Act's original purpose.

(At this point, Ms. MIKULSKI assumed the chair.)

Madam President, the report recommended that an effort should be made to bring on the public record a better accounting of the money spent by labor unions and others for election related communications with members.

So there you have it, Madam President, and my colleagues in the Senate. The presidential system has failed in virtually every significant respect. Yet we would have before us a bill which would seek to impose upon 535 additional races such a system.

My goodness, can we not learn from experience? Can we not learn from experience?

There was an excellent article, Mr. President, done in February 1987, a year ago this month, in the Federal Bar News and Journal. Now let me just give you a little background. These are three folks who wrote this article who have been working for over 3 years for a Presidential campaign. By the way, I think it is interesting to note that it is still going on. This was a 1984 campaign and it is still going on, at least it was as of the date which was February 1987. Hopefully, it is now ended and these three able staffers trying to work with an impossible situation are gainfully employed elsewhere.

But the article was called "Counseling a Presidential Campaign." It was coauthored by Lyn Oliphant. She was at the time of the writing of this article in February 1987 the deputy general counsel for the Mondale-Ferraro Committee. Prior to joining that committee in 1984 she was special assistant general counsel in the Office of General Counsel at the FEC. She joined that staff at the FEC in 1986. So this is a person who has worked from the beginning at either the Federal Election Commission or with the Presidential campaign.

The second coauthor, Madam President, is Patricia Fiori. She was at the time of the writing of this article, February 1987, with the Mondale-Ferraro Committee, still trying to wrap that thing up, years after the election was over. From 1978 through 1982 she had served on the staff of the Federal Election Commission as an assistant general counsel for regulations and subsequently as Executive Assistant to Commissioner John Warren McGarry. From 1973 to 1978 she was legislative attorney with the Congressional Research Service. The third coauthor of this article is Michael Berman. At the time of the writing of the article he was a partner in the firm of Kirkpatrick & Lockhart here in Washington and treasurer for the Mondale for President Committee. He was counsel and deputy chief of staff of Vice President Mondale.

I give all those credentials, Madam President, for a reason. These are three individuals coauthoring this article who are steeped in Presidential campaign election law, some of the true experts in this field, not only from a FEC perspective but also from a campaign perspective for a Presidential candidate trying to comply with this nightmare that we created.

Let me point out certain pertinent parts of this article. The article begins:

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the campaign was over.

Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee's treasurer periodically meets with his lawyers and reviews documents passing to and from the Federal Election Commission. These three people (the authors of this article) plus a part-time controller and a part-time secretary are all that is left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Commission Act (FECA) is a workable solution to the admitted and potential problems which plague the area of the campaign financing.

Now, the author said:

Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns "creative" efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

The authors go on:

For those of us responsible for the campaign's compliance with the Federal Election Campaign Act of 1971, as amended, the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaigns.

Skipping over, Madam President, the authors continue:

Campaign organizations tend to push the limits of permissible election finance activity. Practices and legal interpretations adopted in one presidential cycle become the new jumping off point for the next cycle, raising new questions concerning the reach of the federal election laws.

DELEGATE COMMITTEES

Frequently these new frontiers of campaign activity are the subject of FEC compliance actions, often when a candidate's opponent files a complaint. This happened to the Mondale campaign and the much-publicized delegate committees. One of the central questions posed in that matter before the FEC concerned the permissibility of delegate committees engaging in the same activities as individual delegates under the FEC's delegate regulations.

The authors go on:

Under the regulations, delegates may make expenditures for grassroots activity such as the production of literature which advocates their own selection as delegates and also advocates the election of their candidate. These expenditures are not considered contributions to the candidate, nor are they subject to the candidate's expenditure limit. The Commission had previously issued an advisory opinion interpreting the grassroots activity provision as applicable to individual delegates and delegate committees. However, in this instance in considering the delegate committee complaint the FEC was unable to reach a consensus as to whether the activity of the Mondale delegate committee fell within the parameters of the regulation.

Second problem:

REDESIGNATION OF EXCESSIVE CONTRIBUTIONS

Another issue that was unresolved prior to the 1984 campaign and remains unresolved concerns the disposal of excessive contributions to the primary campaign.

A third problem:

SOURCES OF FUNDS FOR REPAYMENTS AND PENALTIES

Neither the FECA nor the regulations make clear what funds can be used to make required payments of public funds. The issue has been before the Commission on several occasions since 1976, yet remains unresolved.

Problem No. 4, Draft Committees:

Through no fault of the FEC, the status of draft committees remains unresolved.

Persons involved in the Draft Kennedy movement prior to the 1980 presidential campaign refused to comply with subpoenas issued by the FEC on the grounds that the activity of the draft committees was beyond the purview of the FECA.

Congress, despite the FEC's repeated recommendations, has not chosen to take fur-

ther action, leaving the FEC essentially powerless to extend its control over draft committees.

Further problems: Again, Madam President, Members of the Senate, this is an article by three Mondale staffers who used to work for the Federal Election Commission and who spent 3 or 4 years with the Mondale for President Committee trying to comply with this maze that we have constructed.

And these Mondale staffers went on. Contribution limits:

The FECA limits contributions by individual to $1,000 per election. Had the contribution limits been indexed in the same manner as the expenditure limits, the individual limit in 1984 would have been more than $2,000. Fund raising is no longer a test of viability, it is a test of stamina. Candidates are forced to divert attention from issues and campaigning to raising money.

Because of the limits, potential candidates for president have turned to vehicles other than campaign committees to finance activity at the very early stages. First, it was the creation of independent multi-candidate political action committees (PAC's), which may accept $5,000 per year from individuals. PAC expenditures do not count against any limit. Now, it is the organization of think tanks, which are tax-exempt, tax-deductible foundations.

The FECA does not serve its goals, and the real public interest does not benefit, when unrealistically low limits cause candidates to wear themselves out with fund raising and finding new vehicles to attract and spend money. Respect for the law and confidence in the integrity of campaigns is in no way enhanced by these activities.

"If we are not careful," says these Mondale staffers, "over time the FECA will go the route of all the campaign finance laws which preceded it."

The Mondale staffers go on:

Presidential candidates should not be constrained by the campaign finance laws from beginning their campaigns early if they so choose. Candidates should be permitted to begin a campaign 2 or 3 years before the general election if he or she is willing to register a committee at that time.

Their choice. State by State spending limits. This is a particularly interesting section, I think.

The Presidential Primary Matching Payment Account Act and the FECA limit the amount that can be spent in each state by a presidential primary candidate who has opted for matching funds. These state-by-state expenditure limits create an accounting nightmare, serve no useful purpose, and have no practical effect except in Iowa, New Hampshire, and perhaps, in Maine. These states have political and media importance well beyond their size but expenditure limits commensurate with their size.

If a candidate wants to spend every nickel he or she can raise, in a small, early state on the theory that a win there will carry him or her much farther than a war of attrition, that should be his or her choice. These limits spawn the most creative efforts to evade the spirit, if not the letter of the Act.

GRASSROOTS EXPENDITURES

Provisions permitting certain grassroots activities by state and local party committees were added to the FECA in 1979. Essentially, they permit political parties to engage in traditional party volunteer activities without the expenditures for those activities counting against the candidate's limits.

Some have suggested that the current grassroots provisions are being exploited as a loophole. Moreover, the requirements of this law are so difficult to follow that they curb healthy campaign activity. Add to this the fact that state laws and federal laws usually differ. It is easy to see why well-meaning volunteers get frustrated, and much spontaneous participation, so important to the process is lost.

And the Mondale staffers go on.

The fact of the matter is that no campaign treasurer can maintain sufficient day-to-day control over the operation of a large campaign spread over 50 states, so as to assure that no provision of federal law is violated.

Anyone who accepts the position of treasurer should assume that there is a better than 50/50 chance that he or she will at least be cited in his or her official capacity, for violating the FECA. The day may come when no reasonable person will accept this responsibility.

CONCLUSION

Eventually, every campaign completes its responsibility under the Act, the last report is filed, that last box of records is placed in storage and it is over. In our case that may well occur just about the time this article is published.

While we have written about many of the problems of frustrations inherent in financing a presidential campaign, the fact of the matter is that with thoughtful planning and dilgent efforts by all concerned you can avoid adverse consequences to the operation of the campaign by complying with the FECA.

For us the bottom line is very simple. The time has come for the Congress to take a hard look at the way in which we are regulating presidential campaigns, or one day we may find that these laws have in fact subverted the process.

This article, Madam President, is by three experts on campaign finance. They not only worked with it at the Federal Election Commission, but worked with it for Presidential campaigns. Their conclusion is it is a failure. And to extend that kind of system to 535 races would be a double disaster.

Madam President, there has been some discussion about spending limits as an incumbent protection strategy. We did a little figuring on the 1986 Senate elections; the most recent elections. And I think it is important to take a look at this analysis.

In the most recent version of S. 2 there are certain spending limits by State set out by each State. Every single incumbent in 1986, Madam President, every single incumbent who spent within the limits set by S. 2 won. Ten out of ten incumbents who spent within the limits of S. 2 won.

Point 2: 90 percent of the challengers who spent within the limits set out by S. 2 lost. Eighteen out of 20 challengers who spent within the limits of S. 2 lost.

Point 3: 72 percent of the challengers who spent above the S. 2 limits—that was five out of seven winning challengers, spent above the limits. A challenger who spent above the S. 2 limit had a 63-percent chance of winning. Five out of eight challengers who spent above the limits won their races. A challenger who spent within S. 2 estimates had a 10-percent chance of winning; 2 out of 20 challengers who kept within the limits won.

So I think it is important to look at the real facts about whether S. 2's spending limits are incumbent protection stragey. They are.

It is not going to make it any more likely under this bill that a challenger can win, no more likely at all.

So it clearly does not, Madam President, diminish the advantages of incumbency.

One thing I think it is safe to say is most everybody in this body, maybe not every single individual, but most of them, agree that there is something dreadfully wrong when a person who through accident of birth or through great ability to accumulate wealth is able to spend whatever he or she may wish to spend on attempting to personally buy a political office. It is what I have dubbed the so-called millionaire's loophole.

Buckley versus Valeo was in my judgment in most respects a sound opinion properly interpreting the Constitution. But one of the areas that I find troublesome if not from a constitutional point of view, at least from a practical point of view, was the conclusion that it was perfectly all right constitutionally to put a limit on what you could contribute to someone else but it was impermissible from a first amendment point of view to put any limit on what you could spend in your own race. In other words, it was an encroachment on your right of free speech.

I have a new piece of legislation which I think would help deal with that problem. It has attracted some interest on the other side of the aisle. It would help close the millionaire's loophole in a constitutional manner, and help reduce campaign spending. It would prohibit wealthy candidates from recouping personal campaign expenditures or loans from contributors.

We all know what typically happens now, Madam President. If a person has a lot of money, they simply pony up millions sometimes knowing full well that once it is over, assuming they are successful and many are, a growing number are, they will be able to go around town to all the political action committees and all their favorite individual contributors and get themselves paid back.

The bill the Senator from Kentucky will introduce does not say the millionaire cannot put all the money up be-

cause you cannot do that constitutionally, but it does say this: If you put it up, you will have to eat the whole thing. That might not defer somebody with really big bucks but just a little millionaire, Madam President, might think twice if he knew that he had no prospect whatsoever of getting it back once it was spent.

All of us, I think, almost without exception, think we need to do something about this millionaire problem. That is clearly one way to get at it. There is another way. It might not work, but it might have some impact. We could require someone to certify at the beginning of the election when he filed with the FEC that it was his or her intention to spend, let us say, more than $¼ million.

That notification would be a warning to others seeking that office of what was coming. Under that provision, it would trigger for the opponent an opportunity to raise money above the current limit. The current limit is $1,000 in the primary and $1,000 in the general. If you know you are going to be up against a millionaire, one way to counter is have the limit go up some. We suggested $10,000 in the primary and $10,000 in the general. Again, it does not entirely solve the problem, but is another way to try to level the playing field against the millionaire candidate.

Make no mistake about it, Madam President, millionaire spending is bidding up the cost of campaigns. Let me give you some figures on that.

From 1978 to 1986 personal spending, spending out of the candidate's own pocket on campaigns swelled by $30 million. I repeat, during that 8-year period from 1978 to 1986, personal spending on campaigns swelled by $30 million.

It is now the number three cause of explosive campaign spending right after individual contributions and PAC's.

I would bring down the cost of campaigns. As this Senator said repeatedly over the last 8 or 10 months of this seemingly endless debate, if the American people have any interest in this issue at all, and some would argue they do not, it seems to me it is focused on Pac's.

I would be happy to eliminate PAC contributions altogether for the candidates or the parties, just eliminate them. I personally do not have a whole lot of problems with political action committees but it certainly could be argued that if there are special interest contributions to candidates it certainly is the PAC contribution.

Simply eliminating PAC contributions could have a single impact. It would reduce campaign spending by $140 million each year or 30 percent. Some would argue the money would find its way in the system some other way. I would certainly encourage that. I encourage individual contributions. That is what this debate is all about, the protection of the right of the individual to contribute. But the money coming in that process labeled special interest could be eliminated.

As I said, I support restrictions on personal campaign spending by wealthy candidates. This could reduce campaign spending by up to $40 million each year, another 9 percent. Right there, Madam President, a total reduction in overall campaign spending of almost 40 percent every year by trying to treat the millionaire problem and the PAC problem. If we could do that with the deficit we would be in great shape. In fact, it is a lot better than S. 2 would do.

We ought to report soft money contributions and maybe we ought to limit them. A lot of people on this side of the aisle, maybe it is because we do not get much soft money support, do not see much contribution between a cash contribution and a soft contribution. A cash contribution is limited and disclosed. Soft money contributions are unlimited and undisclosed. We ought to disclose and arguably we ought to limit.

But any further restriction on individual contributions is unproductive, undemocratic, and in my opinion unconstitutional.

With regard to the millionaire problem, S. 2 does not really solve that problem, because it cannot, any more than any of the other provisions. It triggers a certain amount of money to the opponent of a millionaire out of tax dollars. But there is no way you can constitutionally get at the problem totally.

Take the Senator from Maryland, the occupant of the chair. Let us assume that she faced a wealthy candidate who did not want to obey the so-called spending limits. Under S. 2, what you would get in public funds to fight that millionaire would be $1.4 million. Now, you would be OK if you had just sort of an ordinary millionaire. But if you had a big millionaire, even the influx of tax dollars up to that limit of $1.4 million would not protect you.

So we are all kind of wrestling with this millionaire problem and there is not any foolproof way to do it consistent with Buckley versus Valeo. But I think it is safe to say that an overwhelming majority of the Members of this body would like to do something about that problem. I mean, it is an area of concurrence.

I see the Senator from Michigan on the floor. He was in the group of eight. We talked about that. That was one of the areas, I think, we had pretty substantial agreement on. If there was anything we could constitutionally do to cut down on the growing tendency of people of great wealth simply purchasing offices in the U.S. Senate, we wanted to do that. And I hope some day, when we get back to this issue in a less intense and more rational way, we can explore every creative avenue we can thing of to do something about the millionaire's loophole.

You know in some of the discussion that has been engaged in over the course of this debate, I think there is a tendency in the area of campaign finance to sort of pick up a notion and repeat it because the assumption is that it is just a fact; if you have heard it once, you assume the person that said it the first time knew what they were talking about and therefore it must be true.

It almost reminds me of the time when I was a kid and I was around the courthouse square and I heard two old fellows discussing a proposition. The proposition was this: If a thing were in print, it had to be true. And so there was a good deal of discussion about that proposition. That was the issue on the courthouse square that Saturday morning as people whittled and people chewed. If a thing is in print, does it have to be true? It was hotly debate for 2 hours.

The conclusion, Madam President, was if it is in print, it must be true—it must be true.

And so I think in this debate when somebody says something first, we assume that that is a well-researched notion and therefore it must be true.

One of the most oft-repeated assertions in this body—and I do not think anybody who said this has intentionally tried to mislead Senators or the public—but one of the most oft-repeated assertions is that money in politics is turning people off; it is turning people off.

I have heard speaker after speaker get up and say: "Why this increase in spending all this money in politics is turning off people and that is the reason for lower voter turnout."

Well, in fact, Madam President, just the opposite is the case. The money is turning people on, not off, and there is a direct correlation between money spent in races and turnout. And if you think about it a minute it stands to reason, because the races in which significant amounts of money is spent are usually well-contested races in which you have two vigorous, attractive candidates who are able to garner support. Two vigorous, able, attractive candidates who are able to garner support can run aggressive campaigns and aggressive campaigns turn the voters on, not off.

The average turnout in the 1986 Senate elections was not anything we are all that proud of overall, 37 percent. But States which spent the most per voter in campaigns tended to have the highest turnout and States which

spent less per voter tended to have the lowest turnout.

As I just said, the explanation is that the high spending races tended to be the ones that were hotly contested, with good candidates, great competition for votes and contributions. What did this high spending pay for? It paid for more communication, reaching out to voters, more discussion of the issues. That is what it paid for.

To fund the spending, more people contributed. When people contribute, they get involved. They have a stake in the election. They want to make a difference.

Time and time again over the last 10 months of this debate, people have cited the 1986 South Dakota Senate race as a race in which an obscene amount of money was spent on a small electorate and how despicable all that was.

Well, Madam President, it is interesting to note that the South Dakota Senate race had the highest turnout in the Nation. Fifty-eight percent of the people in the South Dakota Senate race in 1986 came out to vote. The best in the Nation. The best in the Nation. Why? Because they were turned on, not turned off, by a hot contest with a lot of money raised and lot of money spent.

And you could go on down the list. Vermont was No. 2 with a 49-percent turnout. The money spent per voter in South Dakota was $13.47. That produced a 58-percent turnout. The best in the Nation.

In money spent per voter, Vermont was second, Idaho third, North Dakota fourth. Those States came in fourth, second, and North Dakota was tied with South Dakota for first in turnout.

Let us look at the other end of the scale, the lowest spending States. We had Ohio at 33d, Illinois at 32d, Kentucky at 31st. The turnout was 40 percent, 37 percent, 25 percent.

What was the spending per voter in those States? In Ohio, where you had a 40-percent turnout, 25 cents per voter spent. In Illinois, where you had 37-percent turnout, 33 cents per voter. In Kentucky, my State, unfortunately, we had a 25-percent turnout; we spent 46 cents per voter. Indiana, 39-percent turnout, 53 cents per voter. New York, 32-percent turnout, 72 cents per voter. Utah, 41-percent turnout, 73 cents per voter. Kansas, 46-percent turnout, 85 cents per voter. And so on down the list.

Now, Madam President, show me a race in which not much money is spent and I will show you a race in which there is not much interest, because it is not vigorous, it is not contested and people are therefore not interested. So let us get away from this mistaken motion that the money spent in politics is turning the voters off, because it is in fact turning the voters on.

On the matter of spending and whether it is good or bad, it is interesting once again to quote the Kennedy School of Government at Harvard, a particularly enlightening paragraph I think. This is the Kennedy School report to the Rules and Administration Committee, U.S. Senate, January 1982. The Kennedy School report says the public believes that too much money is spent in election campaigns.

> The public also believes that too much money is spent in election campaigns. Our analysis differs from this accepted wisdom. The amounts of money spent by candidates should be sufficient to provide voters with a reasonably good probability of learning something about the policy proposals, the personal characteristics and the abilities of the contending candidates. The creation of an informed citizenry is unduly circumscribed if the funds available to candidates are not sufficient for them to communicate their messages to the voters. In short, for the educational processes of elections to take place, candidates require ample financial resources.

There is nothing wrong with that, nothing immoral about that, an entirely appropriate way to express yourself in a free society.

The report goes on.

You know, this statement, again, that we make that there is too much money being spent on politics, I think it is important to ask: Compared to what? Compared to what? In fact, the trend of increases in campaign spending is slowing down. All evidence is that it is beginning to cap out.

From 1976 to 1978 Senate and House races together, the spending went up from $115.5 million to $194.8 million, a 70 percent increase over that 2-year period. From 1980 to 1982, it went from $239 million to $342.4 million, a 43 percent increase. From 1984 to 1986, $374.1 million, to $450 million, a 20 percent increase. It is clear that campaign costs tripled in the last 10 years, but the rate of increase dropped over 70 percent. In other words, it is just not going up like it did earlier.

So these suggestions that some have made that it is going to cost $20 million to $30 million to run for the U.S. Senate a few years down the road in small States, there is absolutely nothing to bear that out. The rate of increase is dropping off substantially.

Also, when we say we are spending too much money in politics, I think we have to ask: Compared to what? Compared to what? We are spending too much money in politics. Compared to what?

We spent $23 billion—billion, that is with a "b;" that is big money even by Federal Government standards—$23 billion for cosmetics last year. We spent $55.4 billion for alcohol; $121.4 billion for eating out; $230 million on bottled water; $883 million was spent on advertising cosmetics. That is just the top six companies. Twenty million dollars spent on Kennel Rations and Kibbles and Bits ads.

Now, you know we do spend some money in politics, but it does come from a whole lot of folks, a whole lot of folks. So when they say we are spending too much money on politics, I ask: Compared to what? Compared to what? We are informing the voters—except for the millionaire problems—with dollars raised by a whole lot of others and it is a pittance, it is a pittance compared to end what is spent in this communication's conscious society.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me for a moment?

Mr. McCONNELL. Yes, I yield to my friend for a question

Mr. ARMSTRONG. Let me explain to the Senator from Kentucky who has done such a brilliant job in his management of this issue that, while he has been speaking, behind the scenes there has been a discussion under way which would relate to the schedule for the balance of tonight and tomorrow and into Friday. The acting Republican leader and others have come up with an idea which they are eager to discuss with the Senator and, therefore, the hope is that he would be willing to yield to me for a few minutes, perhaps for 10 minutes, and if he would be willing to yield to me for that period of time, I would propound a unanimous-consent request that he be permitted to yield the floor but to regain it without it counting as a second speech so that, in effect, he would just be permitted to be off the floor for a few mintues and not lose his right to speak further later in the evening.

Mr. McCONNELL. With that understanding, I yield to the Senator from Colorado.

Mr. ARMSTRONG. That is my unanimous-consent request, that I be allowed to address the Senate replacing the Senator from Kentucky and that he have the right to recognition again following my remarks and it not be counted as an additional speech. This request has been cleared with the Democratic leader.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? Without objection, the Senator—there is no objection. The unanimous-consent request is agreed to. The Senator from Colorado may proceed.

Mr. ARMSTRONG. I thank the Chair, and I thank the Democratic leader, and I thank my friend from Kentucky. I see that he has already gone to the cloakroom to consult and it is my hope that the result of this consultation will in fact be an arrangement under which most Senators if not all will be able to go home for the

evening while the debate continues. But with the assurance that there would not be a series of rollcall votes.

Indeed, without trying to announce in advance an agreement which has not yet been reached, the essence of it is that we would restore the traditional consideration for the rights and sensibilities of Senators; that the debate would go on in a more relaxed and less tense manner; that there be some understanding that the substance of the debate through the night would be limited to the topic which is before us, that is to say the bill, S. 2; and that on tomorrow we would have a series of speakers and wind up at a reasonable hour and then have a cloture vote on Friday morning.

Personally, Madam President, I hope that understanding, or something like it, can be reached for a lot of reasons. First of all because I very much regret the episode which occurred here last night. Things did get a little out of hand and I am not going to comment in any detail on what transpired at this time. In fact, the Republican leader has asked me to withhold my observations about the parliamentary situation which arose during last evening and at the right time——

Mr. BYRD. Would the distinguished Senator yield?

Mr. ARMSTRONG. Yes, of course, I would be happy to yield to the leader.

Mr. BYRD. Mr. President, I thank the Senator for yielding. The distinguished Senator has described in some detail a proposal that is being discussed at some length. I would hope that Senators who are listening understand that that proposal has not been agreed to and that Senators will stay around until we can announce whether or not there is any agreement.

I share the hope that something can be worked out whereby there will be debate. It will be on substance and only the substance. However, Senators should not leave the Hill until we are certain that we have that understanding worked out.

I thank the distinguished Senator, and I ask that the time I have taken not come out of his 10 minutes and that he not be charged with the second speech.

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

Mr. ARMSTRONG. Madam President, I thank the leader and, of course, I share his understanding that this is only a hoped-for agreement. It is not an actual agreement at this point.

Madam President, I would like to take a few minutes to discuss something about the bill itself. Since, as I have already mentioned, I am going to withhold my comment about the parliamentary situation, I would like to just ask Senators to think seriously about the substance and content of this bill.

I am convinced, myself, that neither this bill nor nothing like it is going to be enacted during this session, not just this week or this month; I do not think 1988 is the year in which Congress is likely to present to the President for his signature a bill of this general character and I have a hunch that if by some misadventure legislation along these general lines were to come to the President's desk, that he would veto it so fast that it would make your head spin, as well he should. Because this is a bill which attempts to abridge some fundamental rights, not only of candidates but of the general public. It is an attempt to shut down the right of certain individuals and certain groups to participate fully in the political process.

There are really two themes of the underlying proposal. One is to say let us have the taxpayers pay for the conduct of political campaigns, and the other is to say that there ought to be limitations on the amount that can be spent, either by candidates or in some iteration of the bill: How much can be spent by political action committees or somebody?

Madam President, someone may think that it is highly desirable to limit the opportunity for people to spend money to express their political point of view, but, upon reflection, I hope that a majority of Senators would think that a most unwise idea. I do not have in front of me the exact numbers of how much was spent to nominate and advertise and elect Senators during the last cycle, but I think it was something less than $200 million; $180 million is the figure that sticks in my mind, but if that is not accurate, with precision, at least it is a pretty good approximation of what it costs to run all of the campaigns of all of the Republican candidates and all of the Democratic candidates during the last biennium.

Just to put that figure in perspective, that is the amount which, as I understand it, was paid for all of the fliers, all of the brochures, all of the posters, all of the rent, all of the telephones, all of the staff salaries, the printing, the publication, the advertising in the newspaper, the ads on the radio and the television spots that were used together with any billboards, travel expense, and associated paraphernalia.

Now, $200 million is not an inconsequential amount of money but I would point out to my colleagues that there are any number of large commercial concerns that sell widgets and soap and automobiles that would spend far more than this amount for advertising alone.

In fact, I believe it is correct to say that there are a number of large advertisers that would spend, each of them, as much as four or five times this amount during a biennium.

So the threshold question that I would suggest Senators think about when somebody says: well, we are spending too much for this process; or that elections cost too much, campaigns cost too much; is where do we get off with the idea that a couple of hundred million dollars combined total costs for every political campaign for the U.S. Senate in a year is excessive when we have Proctor & Gamble or General Foods or Ford Motor Co. or any of the big ones spending several times that amount to advertise their products.

Indeed, I think the advertising of political ideas and political candidates is not something that we want to limit but is something that is worthy and is well worth encouraging. One of the notions that quickly surfaces when we talk about campaign finance limitations is the idea which we have heard expressed here in this Chamber on many occasions, that Senators are really too busy to spend their time raising money and that somehow this is a big distraction from their work.

I would like to discuss that notion at length but I notice that the Senator from Kentucky has returned and looks as if he is revved up and ready to say something and since I am only filling in and will have an opportunity I guess at some future time to discuss this I would be happy to yield the floor, if he wishes to resume his remarks.

Mr. McCONNELL. I thank the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Kentucky has the floor under the previous order.

Mr. ARMSTRONG. I thank the Chair and look forward to an opportunity to continue my part of this discussion at the appropriate moment.

Mr. McCONNELL. I thank my friend from Colorado. Having had an opportunity to be briefed by the Republican leader on what we hope will be an agreement I will resume the decision.

When I left off, Madam President, we were talking about our favorite subject, campaign spending and whether it was too much. I was comparing it to some other expenditures that we make in this country on advertising and that is, for the most part, what campaign spending is going for these days: Advertising. It is pretty clear that we are not spending very much at all to communicate with our constituents, to give them an opportunity to make an intelligent choice in political races.

We probably ought to be spending more. But the increase in campaign spending is beginning to abate.

What are the real causes of higher campaign costs? As I have said repeatedly, far and away the biggest problem is the cost of television. Those of us

who have sought public office, major public office statewide, know exactly what happens. You are in a hotly contested race, you move into the last 60 days toward the finish line and what happens? Why, our friends at the television stations for the most part raise the lowest unit rate they will charge all customers so that they can get more out of us, the candidates, going down the homestretch. They will make a lot more money off of us. That is a major source in the increase in campaign costs, the cost of television.

About the cost of television, I might say one of the areas of agreement in the group of eight was a proposal made by this Senator that we require the broadcasters to sell us the television time at the lowest unit rate they charged any commercial customer the previous year. In most States that is the nonelection year. In my State, I might say parenthetically, we have an election every 6 months. We find it an art form and we like to do it frequently. But in most States they give the voters relief every other year.

So, typically if you had a situation where the broadcaster was required to sell the time to you at the lowest unit rate of the preceding year, it would be a genuine break and, therefore, hold down to some extent the cost of campaigns.

What does higher spending usually mean? Well, leaving aside the millionaire problem which we wish we could solve, and we are going to try to, higher spending usually means the following: Obviously the candidates can spend only as much as the people contribute. If the candidate raises a lot of money, under our limitations and disclosures, assume he did not put a lot of his own money into it, it means he has a whole lot of support. That is not something we should condemn. That is something we should congratulate.

The money raised in campaigns allows us to use the modern means of communication. We have heard frequently speakers on this floor long for a simpler day, a day when you could go out and meet and talk with your constitutents, or your would-be constituents, in the case of the campaign; where you could maybe make a speech on the courthouse steps and somebody would care, somebody would listen and somebody would show up.

I would wager in this day and age a typical candidate can make a speech on the courthouse steps and nobody would be there but his family. People do not have an abiding interest in listening to politicians make speeches. Believe it or not. It is a shocking conclusion to reach but they do not.

So we went back to a simpler era, and we went back and made these speeches on the courthouse steps and spent a lot of time—we still do this, by the way, spent a lot of time shaking hands at the plant gates. I have run for office a couple of times. I cannot recall having a detailed meaningful experience working through a factory gate shaking hands like this down the line. I do not think anybody is particularly in a mood on the way into work or on the way out of work to have a detailed discussion of the arms race.

So this notion that somehow going out and meeting the voters, speaking on the courthouse steps, shaking hands at the factory gate—all of which we do, you understand—is somehow a better way to communicate with our potential supporters, astounds me because I cannot recall but having had very many detailed discussions of the great issues of the day standing there blurry-eyed at 4:30 a.m. working the plant gate.

For those who have not tried it it is a fascinating experience.

I do not mind doing it, but I do not think it is particularly enlightening and to assume that using television is somehow a step backward it seems to me is patently absurd.

Clearly every television commercial is going to paint his candidate in the best way or paint the opposing candidate in the worst way but it is sort of like a lawsuit. The plaintiff has the lawyer and the defendant has a lawyer and they put them in the ring and they go at it and somehow out of that vigorous competition the jury in the case of the courtroom or the voter in the case of the election is able to make a decision about the relative merits of the candidates.

So we ought to encourage that kind of vigorous exchange and we ought to encourage it in the most modern and effective way and that is the use of media.

We cannot go back to the old-fashioned way because nobody is interested in doing it that way. If the American public is watching television and listening to the radio, then, by golly, the candidates have to be using television and using radio. We have to reach our potential voters and our constituents in a way that they want to be reached."

One of the other arguments frequently made around this place during the course of the debate is that this fundraising is just too time consuming.

Let me say that a candidate—let us take an incumbent because that is what we are talking about here in terms of that argument in this body—does not make sense to put a limit on participating just because some of us do not like to raise money.

It does not make sense to have the Treasury pick up the tab for our campaign just because some of us do not like to raise money. It seems to me, Madam President, that is sort of like throwing the baby out with the bath water, changing the system that allows maximum participation by a lot of people simply because we do not like to ask.

Now, we, under the leadership of the distinguished majority leader, have a very, in my judgment, sane schedule this year. We are allowing 1 week a month for Senators to go to their States and to work their constituencies or if they are running for office to do things like raising money.

So no longer should any Senator go to the majority leader and say oh, protect me. I have a fundraiser. We have a week set aside for that kind of thing. We know it in advance. We can plan.

It should not be used as an excuse ever again that somehow raising money is getting in the way of doing our job here.

I think it is also important to note that that was never a good excuse. I do not think any of us should ever use that excuse.

Our first responsibility is here doing our job in this body, on behalf of the constituent who sent us.

Raising money early which many have decried is simply a tactic. Nobody makes us raise money early.

Some Senators do it, as we all know, and try to scare off opposition to try to earn interest on the money because if you raise it early and properly invest it over a period of time, it will indeed grow. But we do not have to do that. Nobody makes us do it. I know several Senators on this side of the aisle who just simply choose not and they have been able to get reelected quite easily. It is a strategy matter. You can do it or not do it, depending upon our particular situations and how we want to structure the campaign.

I choose to spread this kind of activity over a whole lengthy period of time rather than putting it off to the end. I have many bad qualities, but procrastination is not one of them. So I choose to do it early or spread it out rather than not have it come down on my head at the end. But either approach is appropriate. It is a strategy decision that each of us makes, but nobody makes us raise money and there is no set amount that any of us have to raise. There is no set amount.

If you do not have a tough opponent, you will not need much money. If you do, you will, because the race will be competitive and you will be attacked and you will need it to defend yourself because after all we do not own these seats. We get a 6-year lease and when that 6 years is up, if we want to keep it, we have to fight for it. Sometimes you are lucky enough to get an easy opponent and have a lot of folks in your State who really like your work and love you so much they just would not give anybody running against you a chance to get off the ground. That is a wonderful experience for anybody who has it.

But we do not own it. We do not have a perpetual right to sit here and it is not un-American for us to have to go out and fight to keep it every 6 years or to have some upstart who looked in the mirror and saw a U.S. Senator and said, "By golly, I am going to go challenge that fellow and that lady." That is part of the process.

And if we have a good challenge it is going to be somebody who can get some support, raise some money, get on TV and jump on us and that is the way it goes—politics in America.

So we should not be offended by the process that requires us to do something to stay here, do something politically as well as our jobs. And it seems to me for somebody who is reasonably energetic, they can both walk and chew gum at the same time.

Now, Madam President, going back for a moment to the issue that divides us and it is really too bad that it does, but it is a deep-seated difference both philosophically and in terms of the positions of our two parties in the American political process and that is the spending limit issue.

The Supreme Court in Buckley versus Valeo basically frowned upon spending limits. In fact, the Supreme Court in Buckley versus Valeo said that mandatory spending limits are unconstitutional.

It did allow Congress, however to appropriate funds for Presidential candidates as an incentive to comply.

There was, however, no penalty on nonparticipants. You just had to work harder.

Now, we have one candidate who tried that. He did not get anywhere, but Gov. John Connally ran for President in 1980 and said, "I am not going to take any public money; I am going to do it privately." He did not get very far. He did not take any public money. He only got one delegate. But when he made that decision, Madam President, to refuse to accept public money, he did not trigger for any of us opponents additional public funds.

His exercise of his constitutional right to avoid taxpayer dollars and spending limits did not trigger for any of his opponents a payout from the Treasury.

The problem with all three versions of S. 2 is that they use taxpayer money as a hammer to take away constitutionally protected political rights.

Under each version there is a punitive payment to the participating candidate as a result of the nonparticipating candidate's decision to do it his own way and to avoid to deny to refuse to accept spending limits public finance.

In the most recent version of S. 2, this unconstitutional aspect is so blatant, so blatant as to be apparent.

There is a significant amount of money triggered out of the Treasury to anyone who decides as a matter of principle or strategy or whatever to simply not accept spending limits and not accept public money.

Now, Buckley versus Valeo is oftentimes a misunderstood decision. It was handed down January 30, 1976. The decision said in pertinent part:

The campaign expenditure ceilings appear to be designed primarily to serve the governmental interests in reducing the allegedly skyrocketing costs of political campaigns.

The decision went on:

In any event, the mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns. The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

Now the famous footnote in this decision says:

For the reasons discussed in Part III, *infra*, Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.

What does that mean, Madam President? What that means is that the public money can be used as a sweetener or inducement to a candidate to accept a limitation on expenditures and that is what has happened in the Presidential system.

All but one of the Presidential candidates have found it irresistible to dip into the taxpayer's pocket for public funding. Not because it triggered any kind of punitive payment to any of their opponents but simply because you do not have to work as hard if by raising a certain amount of private dollars it triggers public dollars. And so each of the candidates in spite of the fact that the law is a disaster and that one out of four dollars is spent on lawyers and accountants has found it irresistible and have accepted the limits but there has been no punitive aspect to it. S. 2 to the contrary in all three versions sets up a punitive payment to your opponent. If you decide as a matter of conviction or strategy to go your own way, to raise your own money, to do that as best you can, and to spend it all in your election, your opponent receives a huge taxpayer subsidy to punish you in effect for exercising the right that Buckley versus Valeo gives to each candidate in its interpretation of the first amendment as it applies to campaign expenditures. Punishment.

Now, the Department of Justice in an opinion written to the Senate Committee on Rules and Administration in May of 1987 made some of these points. And it said with regard to monetary sanctions;

Although participation in the public funding program and adherence to the expenditure limitations would be voluntary—

That is the Justice Department opinion on S. 2 the constitutionality of it——

The bills impose some form of monetary sanction on those candidates who choose not to participate and who raise and expend sums in excess of the limitation applicable to participating candidates.

The opinion goes on these provisions pose grave constitutional problems.

Further, the opinion says:

Direct limitations on a candidate's right to expend his personal resources on his own political campaign plainly violate the First Amendment. See *Buckley* v. *Valeo*, 424 U.S. 1, 50-54 (1976). See 424 U.S. at 53. These bills seek to impose such restrictions indirectly, by placing what amounts to a penalty on a candidate's personal expenditures in excess of his hypothetical entitlement to public funds. This penalty amounts to a matching grant of public funds to his opponent.

It is not the way the system works:

Personal expenditures by a candidate thus serve to trigger the subsidization of views with which the candidate presumably does not agree. While this type of indirect restriction does not fall within the precise holding of Buckley, we believe it is clearly embraced by its reasoning. Congress plainly cannot forbid candidates from expending resources on their campaigns. Rather than directly doing so, the bills "exact[ ] a penalty," 4187 U.S. at 256, for such conduct, by making the size of the public subsidy to the candidate's opponent dependent upon the candidate's own First Amendment conduct. The more the candidate does to promote his own views, the more he fosters the promotion of views he opposes. [2]

In sum, we think that the proposed provisions, by tying a candidate's funding of his own campaign to increased public funding of his opponent's likely represents an unconstitutional infringement on the right to use one's own resources to disseminate political messages.

The DOJ opinion goes on to say:

For many of the reasons outlined above, the bills may also unconstitutionally burden the rights of contributors. Under the bills, contributions to candidates in excess of the statutorily specified amounts result in the payment of additional public funds to their opponent. Thus, contributors see their contributions fostering the spread not only of the ideas they wish to support, but also of those they do not. The predictable result is a chilling effect on the right to contribute.

Accordingly, all of these bills raise serious constitutional questions with respect to the rights of contributors. Since they are not even designed, much less narrowly tailored, to prevent corruption, they appear to us to be inconsistent with the First Amendment.

Madam President, let us talk a little bit about what can be best described as getting and spending under S. 2.

In the primary election—let us talk first about where the money comes from under the most recent version of S. 2.

First, there is a postal subsidy which we estimate to cost the Government, the Federal Government, about $17 million for Senate candidates each cycle. If the bill were to apply to both Senate and House races, we would estimate the cost of the postal subsidy to be about $75 million per cycle. That is more money than would be gained through offset by denial of the mail subsidy to political parties. That would raise only about $10 million annually.

But another way, under the current system as we know the Federal subsidy for the American Communist Party along with other parties, it sort of takes it away from them and gives them to the Communist Party candidates just like any other party. It is sort of paid for by the taxpayers through a tax stamp similar to those levied on the colonist under the British King in 1776.

Other costs under the S. 2 in addition to the postal subsidy are administrative costs. The FEC estimates an additional $1 million a year for the Senate alone. That is we believe a conservative estimate.

Then there is direct public financing under certain circumstances. CBO estimates that 20 percent of the candidates seeking public office in each cycle would not comply with the spending limits. And if you assume in addition one third party candidate each election given the fact that third party candidates get a chance to get into the public kitty, it is estimated by CBO that this would trigger payouts from the Federal Treasury of $21 million each cycle for the Senate alone and $75 million to $100 million if the Senate and House races were both covered by the bill.

Further, there is an independent expenditure compensation provision in the most recent version of S. 2 such that candidates are compensated on a dollar-for-dollar basis out of Federal tax coffers if a private citizen spends a large sum to criticize them or supports an opponent.

Let us take the 1986 cycle as a way of maybe getting a handle on this. In 1986, in terms of independent expenditures, there were $5 million in independent expenditures for the Senate, $11 million for the Senate and House combined, people who went out and made independent expenditures either supporting or opposing candidates for the Senate and the House in America in 1986.

Since S. 2's contribution limits will force undisclosed money into this uncontrolled activity, independent expenditures in the future would likely double or triple. So the drain on taxpayers is likely to be under this system upwards of $20 million under each cycle if the Senate and House were combined.

So what does the total taxpayer subsidy add up to, Madam President, in the most recent version of S. 2? We estimate $30 million a year for the Senate alone, $130 to $150 million per cycle if the Senate and House were combined. Both of these are very, very conservative estimates. Both take account of the transfer of mail benefits from parties to candidates. That offset is included in the figure.

That is where the money would come from under the most recent version of S. 2. Now, let us get a sense of what the estimated spending would be. Bear in mind that the notion behind these proposals are to try to limit campaign spending.

I pointed out at some length earlier that that has not happened in the Presidential system, the only system we have available to compare or to take a look at. It has not worked out that way. So let us take a look at what is likely to happen on spending under the most recent version of S. 2.

Under S. 2 in the primary, a total spending limit for 99 candidates and 66 primary elections, we are assuming here 1 candidate in the incumbent party and 2 candidates in the opposing party, the spending allowed under this bill would be $101,151,200. In the general election under S. 2, the most recent version, total spending limit for 66 candidates and 33 general elections, that is assuming two candidates in each election, Republican and Democrat, spending allowed under this proposal would be $102,509,333.

So under the most recent version of S. 2, we are talking about a total primary spending across the country of an estimated $101 million, total general election spending across the Nation estimated at $102 million.

Then there is the independent candidate in the general election. Under S. 2, the independent candidates in the general election we have to assume there will be some. Let us assume 33 independent candidates and 33 general elections. That is one independent per State funded by S. 2 matching funds. There would be an expenditure in the general election by independent candidates in the amount of $51,254,666.

In addition to the spending allowed in the primary election, the general election, by party candidates and the general election by independent candidates, we have to estimate the S. 2 independent expenditure defense allowance: S. 2 allows dollar-for-dollar matching funds to 66 candidates against independent expenditures. Based on the total independent expenditures of the 1986 independent Senate races, we estimate that the Federal tax dollars triggered to defend against independent expenditures would be about $4.4 million.

The the most recent version of S. 2 has the technical compliance cost fund. The technical compliance cost fund: S. 2's total allocation to 66 candidates for compliance expenses, 10 percent of the State spending limits would be about $10.2 million.

So the total S. 2 spending allowed—this is the most recent version of S. 2—in each State election cycle is $269,642,000.

Madam President, I repeat: The total spending allowed under the most recent version of S. 2 for Senate election cycle is about $270 million. Let us compare that to the total spending in the 1986 Senate election cycle, the most recently completed cycle: only $211 million was spent in those elections without any spending limits, and without any public finance.

So the anticipated increase in campaign spending under S. 2 is $58.6 million, a 28-percent increase in spending if we adopt spending limits.

It does sound absurd but the only thing we have to compare it to is the Presidential system. And of course we know that under the Presidential system of spending limits and public finance, we have seen a great increase in spending, and a great expenditure on an increasing basis of tax dollars.

So there is no reason to believe that this measure designed to limit spending will limit spending. And if a measure designed to limit spending will not limit spending, why pass it? Why pass it?

We think this is a pretty conservative estimate of the cost under S. 2. That is a 28-percent increase in spending under the spending limit proposal.

The way to get at reducing spending, Madam President, is not all that complicated. There are certain things that are driving the cost of campaigns: the cost of television, more and more millionaires putting their own money into races, and the proliferation of PAC's, political action committees. If we could do something about all three of those areas we could have a dramatic impact on reducing the cost of campaigns. But ironically, the one approach least likely to produce the desired result of reducing the cost of campaigns is the spending limit measure because they do not work.

They just do not work. There is no way you can construct a spending limit measure that will not force the money out in some other direction. And so all it fosters is cheating. All it fosters is the proliferation of the expenditures of money outside the system to get around it.

So if we really want to do something about campaign spending, we could lower PAC contributions. This Senator and 14 other Senators, unfortunately all just on this side of the aisle, are willing to eliminate political action committee contributions altogether—

kiss them goodbye as a worthwhile experiment that did not work out too well.

There are some who would say that, "Well, if you cut out the PAC's making direct contributions to party and candidates, they will simply make independent expenditures." I do not know about that; it is possible. But at least if the idea is to diminish the influence of special interest contributions on political campaigns, we would eliminate them altogether. Unfortunately, we have not been able to get a single solitary cosponsor of that bill on the other side of the aisle. I would like to. Maybe next year.

We can reduce millionaire spending. We talked about that a lot tonight and there is no sense in rehashing all of that. But the growing number of wealthy people trying to buy public office is a problem. There is a clear increase in spending by millionaires to buy public office. We are not happy about it. We ought to do something about it.

We ought to control soft money spending. We do not get much of that on this side of the aisle but it is out there and it is unreported and unlimited. And it seems hardly fair. Spending is spending. It does not make any difference whether it is a cash contribution or a soft money contribution, a contribution is a contribution is a contribution. And if we think it is desirable to limit and disclose cash contributions—and I happen to think that it is; we have not advocated even raising the contribution limit although it has not been raised in 12 years—then why not have soft money disclosed and soft money limited?

We could provide a real discount for television; a real discount. You know that the stations do not have an unabridged right to charge us to rip us off in the last 60 days of an election. They get a license to operate. The public airways are considered public property. But, on the other hand, for 60 days or so every 2 years, it does not seem to this Senator to be unconscionable to require them to sell us the time at the lowest unit rate for the preceding year, the nonelection year. Give us a break. We are trying to reach the voters.

We could tighten controls on party and special interest campaign activities. We could require full financial disclosure by national political party committees, candidate draft committees of all receipts of independent expenditures and soft money activities.

And even though there are constitutional difficulties, there are some things we can do about making it just a little bit tougher to engage in independent expenditures. We could require that any independently-financed political ad disclose the personal organization financing the ad. We have to do that in our races. At the end it has to say "Paid for by friends of MIKULSKI." I do not think that is inappropriate. The voters are entitled to know who paid for it. That is not currently the case with ads which are placed independent.

The next thing we could do, and some would argue this may be going too far, but we could require notice to other candidates to the contents and placement of any independent financed political communication. It will probably buy us a lawsuit that it is unconstitutional, but we could try. It just may give the regular candidates a sense of what is about the happen to him as the attack commercial hits the air.

We could require reports to the candidates who are being opposed by the FEC of independent expenditures totaling more than $10,000 and for each additional $5,000 so we would have a sense of how much was being spent in independent expenditures in a political campaign.

We could have a strict definition of independent expenditures stopping consultation or coordination with any candidate or his agents. And we could prohibit bundling by counting bundled contributions against both the bundler and the original donor unless the bundler is retained or authorized by the candidate for fundraising or is the national committee of a political party.

All of those things, I might say, Madam President, would do something about the cost of campaigns. And in the areas where it would not treat the costs, at least it would give us a better view or perspective of what is in fact being spent, get a better sense of what has happened through disclosure.

On the issue of soft money, on October 9, 1986, there was a complaint with the FEC against an AFL–CIO, and this was the response that I think bears some bearing on that issue:

This letter constitutes the response of the Missouri State Labor Council, AFL–CIO ("the Labor Council") and MRV, Inc. ("MRV") to the complaint filed with the Commission alleging that the Labor Council and MRV ("respondents") have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

The gist of that complaint is that respondents are proposing to sell "voter lists" to federal candidates for less than those lists' fair market value and are therefore making inkind contributions to such candidates in the amount of the difference between the fair market value and the price charged in violation of 2 U.S.C. § 441b. Specifically, the complaint alleges that respondents are proposing to sell Missouri voter registration lists for approximately $7.00 per thousand names, a price which complainant alleges is "far below any reasonable and acceptable market charge". Complaint at 5. The complaint also alleges that respondents are violating the Act "by withholding the voter lists from those candidates who refuse to 'toe the Labor line'."

The Missouri State Labor Council regularly communicates with its members regarding political issues and urges all of its members to register and to vote in all elections. In connection with these communications, it is necessary for the Labor Council to know which of its members are registered to vote. In the past, the Labor Council has been required to spend approximately $100,000.00 to $120,000.00 every two years to compile a current computerized list of AFL–CIO union members in Missouri who are registered to vote.

The response goes on:

Aware that other organizations and individuals also needed the registered voter information that the Labor Council had been compiling, the Council, along with others, began investigating alternate methods for compiling, and making use of, a computer tape of Missouri registered voters. This investigation revealed that a complete list of registered voters could be assembled and stored on magnetic computer tape and that the list so stored could be enhanced with additional information, such as birthdates and telephone numbers, derived from public records.

MRV, Inc., was therefore established for the purpose of assembling, owning and marketing a computerized list of registered Missouri voters. MRV is a not-for-profit corporation organized pursuant to Chapter 355 of the Missouri Revised Statutes. MRV has no shareholders or members. The Board of Directors of MRV is composed of the individuals serving as president and secretary-treasurer of the Missouri State Labor Council, AFL–CIO, and of the Greater St. Louis, Missouri Labor Council, AFL–CIO.

Now, the charges and services provided by the labor organizations to party voter registration committees, selections, and options. No charge, party affiliation; $4 per thousand can provide information on the ethnic background of the voters, the party registration, past voting history, all of those kinds of activities provided at a lower than market rate.

As the affidavit of Daniel J. McVey points out, it says:

I am the President of the Missouri State Labor Council and the President and a Director of MRV, Inc.

In the past, the Labor Council, in order to determine which of its members were registered to vote, has spent between $100,000.00 and $120,000.00 every two years in compiling a list of registered voters in the State of Missouri. Those sums were expended to purchase lists of voters in those counties and cities where such lists are maintained in computerized form, to pay for the handgathering and keypunching of the voter registration information lists in counties where that information is not computerized, to convert all that information to a form compatible with the Labor Council's computer files, and to match all the information gathered with Labor Council's list of members. The voter registration list was then discarded. This process was repeated every two years.

MRV, Inc., was organized to assemble and maintain a complete list of Missouri registered voters.

Now, this kind of expenditure, Madam President, is all unlimited and undisclosed; unlimited and undisclosed. This is what we call soft money. And that is every bit as relevant to the political process as the

cash contribution which is limited and disclosed by any individual to a candidate of his or her choice. And so this is the kind of money in the political process that we are talking about that needs at the very least to be disclosed and, in the view of many of us, limited just like a cash contribution. It is indistinguishable from a cash contribution. And yet that sort of thing is outside the system.

I am told that New York City recently decided to go to the system of spending limits, but not without a fight. Here is what Walter J. McCaffrey, a Democrat who represents the 21st District of Queens on the New York City Council, had to say in the New York Times op-ed piece of January 12 of this year. Mr. McCaffrey said:

The New York City Council is considering legislation—

And I am told they subsequently passed it—

To use tax money to finance political campaigns. Under it, candidates who choose to participate must accept a spending cap and limit the private contributions they accept to certain maximums. Each contribution would be matched by city tax dollars. Most political analysts estimate that this would cost about $30 million.

This is just for the city of New York.

I am not against campaign financing reform, but the Council proposal would not keep its promise to clean up corruption and does not reflect economic realities.

Paul Dickstein, New York City's Director of Management and Budget, recently said that the October stock market crash endangered the city's financial stability. Even crucial programs, such as police protection, may be cut. Is this the time to spend $30 million on political campaigns?

The money for publicly financed campaigns must come from a tax hike, which would be unwise, or from cutting municipal programs and services. People would not like it if New York City in effect told some youngster, "We took away your hot meals because the borough president faces a primary election and we need the money for television commercials."

Thirty million dollars would put 600 more police officers on the beat. It would pay for eight or nine mini-schools to alleviate classroom overcrowding in Elmhurst or Washington Heights-Inwood. Or we might spend it on permanent housing to move homeless mothers and their children out of mid-Manhattan's welfare hotels.

A dishonest politician will not become honest through a baptism of tax dollars for his election campaign. Furthermore, the State Commission on Integrity in Government, appointed by Governor Cuomo, has found no link between corruption and campaign contributions. To rationalize public financing of campaigns, the commission is reduced to pleading the mere appearance of impropriety.

The Council legislation cannot stop special-interest political-action committees from independently campaigning for or against candidates. We have learned that from Federal experience with PAC's.

Moreover, the legislation would, unfairly, constitute an incumbents' protection act. Several Council members have argued for setting very low campaign spending ceilings. Some seriously suggest that Council candidates should be allowed to spend only $40,000 in the primary and $60,000 in the general election.

This means that a challenger, without the benefits of incumbency, would be limited to spending the same amount. Public financing should place challengers and incumbents on the same level paying field. The Council legislation would not achieve that goal.

Each Council member currently receives $24,000 a year from tax monies to publish and mail newsletters twice a year. Over four years, this amounts to nearly $100,000 in free publicity sent to every registered voter in each members's district. Council members also get publicity simply by being public officials, and enjoy the benefits of full-time staffs for service to constituents, which also builds voting support.

In community meetings, I've encountered considerable opposition to public financing of political campaigns. My constituents believe that using their tax money to pay for campaigns is absurd. A recent poll of New York City residents showed that 78 percent oppose public financing for New York City elections.

My constituents are already displeased by Mayor's Koch's plan to increase taxes on their homes. To then take some $30 million of these funds to finance political campaigns would be a disgrace.

City legislation modeled after the Federal laws governing Congressional elections, which restrict contributions without spending public funds, would be a much better approach to campaign reform. In fact, under those laws an individual's contributions to candidates for Congress would be considerably smaller than the city legislation would allow.

Finally, a major rationale for public financing is that it would restore confidence in the city government. That's foolish. The public's trust is earned foolish. The public's trust is earned over time. It can't be regained in a flash through public financing. The people are smarter than that.

Now, Mr. President, the Washington Post Outlook Section of August 10, 1980. There was an interesting piece, a rather amusing piece, actually, entitled, "Are the Candidates Worth Your $100 million in Taxes?" The headline says, "The booze, balloons, junk mail, limousines, nepotism, and boring convention speeches that your dollars pay for."

This is by Mary Meehan, who is a freelance writer who has long followed the consequences of public campaign financing.

Hey, there, taxpayers! If you turn on the TV tomorrow to watch the Democratic convention, you should realize that you are paying for the big show. Gavel to gavel, you're footing the bill for the podium design, the balloons, the banners, the music, the security, the sound system and the convention staff.

If the Democrats put on a dull show, you will have every right to complain, because each day of the convention will cost you more than $1 million. This should at least buy good entertainment, speeches equal to the best of William Jennings Bryan, and a presidential ticket worth voting for. If you get none of the above, you will know that another government program doesn't work.

Your tax money, moreover, is still paying leftover bills from the Republican convention that so many of you didn't bother to watch. You're also paying a large share of the bills from the primary campaigns of both parties—including tabs for booze and limousines and the like—and you will pay all costs of the Democratic and Republican presidential campaigns this fall. In 1976 the candidate and convention subsidies cost you about $76 million; this year, with a postal subsidy added and the price of nearly everything going up, the political subsidies will cost you at least $105 million, probably more.

Now, that may not be much by government standards, but I bet it seems like a lot of hay to you. Especially when you consider what you are getting for your money.

Perhaps you're among the roughly 70 percent of taxpayers who do not check off a dollar on their tax returns for the Presidential Election Campaign Fund. So you may think that you're not paying for Ronald Reagan's pollsters or Jimmy Carter's TV ads. I hate to shatter what may be your last illusion, but you *are* paying for those items.

You see, the people who check off a dollar do not send an extra dollar to the IRS to pay for campaigns and conventions. They pay the same taxes they would normally pay, and so do you. All of their dollars and all of your dollars go into the U.S. Treasury. Then part of their money—and part of yours—goes to the special campaign fund. In other words, the 30 percent of taxpayers who do check off appropriate money for the 70 percent who do not. If this doesn't sound very democratic to you, just ask the people at Common Cause. They say it's a reform.

Anyway, back to the main point: What are you getting for your money? First, you might consider the quality of candidates this year. Are they worth $100 million? (Are they worth $100, you might ask.) Perhaps we judge contemporary leaders too harshly; maybe we should look to history as a comparative guide. But sometimes history is even tougher.

During the 1980 primary season, historian Barbara Tuchman said of the various presidential candidates: "Look what we're offered! God! The country that produced George Washington has got this collection of crumb-bums!" Mort Sahl offered similar views a few years ago. Sahl noted that during the American Revolution, when our population was far smaller than it is today, we had leaders such as Thomas Jefferson, Samuel Adams and Thomas Paine. Now, he said, we have leaders such as Gerald Ford, Ronald Reagan, Jimmy Carter. His conclusion? "Darwin was wrong."

Actually, the folks at Common Cause never promised us that public funding would buy us smarter, more competent or nobler presidents. But they did suggest that it would buy us presidents less beholden to "special interests." The idea was that the taxpayers (willingly or unwillingly) would outbid the special interests. So we taxpayers invested more than $25 million in Jimmy Carter in 1976.

Yet the National Education Association, with a much lower bid, bought itself a Department of Education. The maritime interests, also low bidders, won Carter's support for a cargo preference bill. Democratic Party fat cats did not contribute nearly as much as taxpayers, but several of the fat cats won diplomatic posts.

Anne Cox Chambers and her husband contributed $51,000 to Democratic candidates and committees from 1973 through

1977; Carter appointed Chambers ambassador to Belgium. Milton Wolf and his family donated nearly $50,000 to Democratic candidates from 1974 through 1976; Carter made Wolf ambassador to Austria. Marvin Warner and his family gave $57,000 to Democratic candidates and committees in 1973-76; Carter appointed Warner ambassador to Switzerland.

A cynic might say that, thanks to the election law's contribution limits, ambassadorships cost less than they used to; but some of them, at least, are still for sale. So much for the Common Cause theory about public subsidies—which Common Cause and the Democrats would now like to extend to congressional candidates as well.

You may think that the 1980 candidates aren't much to write home about, or perhaps you are reserving judgment until the fall campaign. In either case, you probably hope that you are getting something else for your money. How about the conventions?

You are paying $6 million to $8 million for each major-party convention. Your Presidential Election Campaign Fund (the dollar check-off kitty) gives each party up to $4.4 million for convention expenses, balloons and all, and the Law Enforcement Assistance Administration (LEAA) grants each host city up to $3.5 million for "security assistance." (The LEAA program, which started with the 1972 conventions, pays mainly for police officers' overtime.)

All of this adds up to the more than $1 million a day for each convention while it is in session. And that sum doesn't even count the many costs picked up by the host cities. Are conventions worth that price?

There are several ways to judge. You can view them as conferences in which the Great Issues of the Day are discussed—although not necessarily debated. Convention managers learned a lesson from the 1968 Democratic convention debate on Vietnam and from the 1982 Democratic convention debates on everything else. About the last thing they want on their prime-time TV shows is a live issue. The Republicans manage to get through their July convention without any platform debate. The unlucky Democrats seem unable to do the same; but I doubt that their platform debate will be worth $1 million a day.

Alternatively, you can judge each convention as a huge party in which the delegates booze it up and whoop it up and generally have a good time. The only problem is that you're not invited to the party. Even if you were, watching adults wear silly hats and use strange noisemakers may not be your idea of fun. Is a national New Year's Eve party worth $1 million a day?

Finally, you might rate each convention strictly as a form of television entertainment. Is the Billygate sideshow as good as "Archie Bunker's Place"? Did Grandpa Ronnie read his lines well enough to compete with "Little House on the Prairie"? Perhaps, as a new reform, we should establish a Taxpayers Board to Judge the Entertainment Value of the Conventions and to raise or lower the public subsidies accordingly.

The GOP might receive a bonus for the Great Ford Flirtation at its convention. If the Democrats stage a spectacular family fight, with broken dishes and blood all over the floor, they too, would win a bonus. On the other hand, negative points would be assigned for the most boring speeches. An alternative would be to provide an automatic rise or fall of subsidies according to the Nielsen ratings.

The subsidy for junk mail is lower than the others; this year it is $4 million. I suppose it is not very charitable to call party fund-raising letters "junk mail," but I have received a couple of the Democratic letters and find it hard to call them anything else. For some reason, I'm not on the Republican sucker lists.

The two major parties slipped the postal subsidy through Congress in 1978, by making party committees eligible for the nonprofit bulk rate. Then last year, after realizing that several of the minority parties were taking advantage of it, they voted to exclude the minority parties but keep the subsidy for themselves.

This year the minority parties struck back with a lawsuit in federal court, charging discrimination. (John Anderson's independent campaign joined the suit late in the game.) The minority parties and Anderson won their case, though they are still excluded from the other political subsidies.

Now there's an effort in the House to cut off the postal subsidy altogether. The subsidy is worth about a nickel for each letter in a bulk mailing; so it's worth bushels of money to the Republicans, who send out huge volumes of direct mail. You can expect to hear moans of pain and grief if the effort to end the subsidy is successful; the party fund-raisers will sound like banshees.

But I think the opponents of the subsidy have a point: It's bad enough to have junk mail overflowing from your mailbox when the sender pays for it, but it really hurts when you have to pay for it. (Nobody knows the trouble you've seen; nobody knows the sorrow.)

Well, this interesting article goes on, Mr. President. I ask unanimous consent that the remainder of the article be printed in the RECORD.

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

You should also know about the waste factor. Even if you don't think that all of the political subsidies are a waste, some aspects of them may bother you. Since you are forced to pay for the subsidies, you should at least have the right to demand no-frills campaigns. That is not what you are getting now. In fact, I have a sneaking suspicion that federal subsidies are leading politicos to pay for services that used to be volunteered, and to buy things they would have to skip under a private-financing system.

In the old days, for example, campaigns had plug-in coffee pots; now they have coffee services. Back in January, Howard Baker's campaign paid a firm nearly $240 just for coffee service. In the old days, campaign volunteers decorated a headquarters. The chic thing now is to pay professional decorators for the work, as when George Bush's campaign paid $231 to the Freeman Decorating Co. of Des Moines to spruce up a campaign headquarters. But that was small potatoes. The Carter-Mondale committee listed on its June FEC report a debt of $19,250 to National Maintenance & Construction of Beltsville, Md., for "Office Alterations." In the old days, that would have been a do-it-yourself job.

The Carterites also apparently had a big party, perhaps a fundraiser, in Nashville early this year. As of June, they still owed the Nashville Tent & Awning Co. $561; owed the Famous Brands Liquor Store of Nashville $785; and owed Party Rental Services, Inc. of Nashville $524. That must have been some party. Don't you think that you should have been invited, since your matching funds will cover about one-third of the costs. Perhaps we should write into the law a guarantee that you may attend any political party you helped finance. If that were to come about, I fear they would offer you lemonade instead of bourbon, but at least the principle of fair play would be established.

I don't know what the Carter-Mondale volunteers do, but they certainly don't sweep the floors or dust the desks at headquarters. By June the Carter committee owed $4,732 to a Washington firm for janitorial service. And their leaders don't travel second-class either; they owed $903 to a Brooklyn firm for limousine service. And $261 to an El Paso firm for "Meetings-Drinks."

The Carter committee also provides employment for some of the president's relatives. Annette Carter received a mere $972 in take-home pay for June, but Chip Carter received $1,316. Jeff Carter received $1,750 in June for consulting contracts having to do with "computer service management." If they had only though of it, the Carter high command might have kept brother Billy out of trouble by adding him to the campaign payroll, too.

How about the Republicans, those good fiscal conservatives? Surely they are more frugal with the taxpayers' money? Well, no, not exactly. Republicans, I'm sorry to say, have become big spenders from the East when it comes to their conventions. (Republicans as well as Democrats in Congress voted last year to increase the convention subsidies. This may sound a little bit like a conflict of interest to you, but Common Cause says it's OK.)

Late in 1979, and early this year, the Republican convention committee paid $15,000 to Mark Ambruster of Los Angeles for "program script for convention." In the good old days, conventions didn't have scripts. But that was just the beginning. The GOP paid $20,000 to Water Mill Productions, Inc. of New York City for a design and development contract having to do with "podium design." Water Mill received another $85,000 of your tax money in the spring for construction supervision, a large-screen projection system, and other items.

But Syd Vinnedge Productions Inc. of Los Angeles has received a lot more of your money. By June 30th they had been paid $200,000—and were owed another $50,000—for the "convention theme presentation program," whatever that was.

The Republicans paid a fair amount of tax money for films, too. By the end of June they had forked over $45,000 to Palisades Communications of Santa Barbara for an "Auxiliaries Film," and they still owed Palisades another $20,000. They sent $37,000 to A.B. Productions, Inc. of Los Angeles for a film to be used on the first day of the convention. I don't know about you, but I'm beginning to think that the GOP should have held its convention in Hollywood instead of Detroit.

There's more, much more, about the Republican convention that might dismay you. They paid $493, for example, for a "timer, etc. for hearings." That was either a mighty expensive timer or a mighty big "etc."

But enough of that. The question now before the house is: Will Ronald Reagan, that fierce opponent of big government, box some ears or whack some fannies and get the Republicans into line? You would like to

think that, and so would I, but the outlook is not encouraging.

Although Gramps is philosophically opposed to public funding of campaigns, he accepted $4.4 million in matching funds for his 1976 primary campaign. In 1980 he has received nearly $7.3 million in matching funds—far more than any other primary candidate. And just after the Republican convention, he applied for and received $29.4 million for the fall campaign. That comes to a total of $41 million in campaign subsidies for a man who does not believe in them. Gramps is no dummy.

He reminds me of the Walrus in Lewis Carroll's poem about "The Walrus and the Carpenter." You may remember that the Walrus felt a little guilty about helping the Carpenter eat the oysters. He even wept for the victims. Upon hearing this story, Alice said that she liked the Walrus best, "because he was a little sorry for the poor oysters." The storyteller responded: "He ate more than the Carpenter, though. You see, he held his hankerchief in front, so that the Carpenter couldn't count how many he took * * *"

I suppose Gramps can say that he really has no choice about accepting the subsidies. Carter accepts subsidies and, because of the contribution limits, Reagan could not compete with him by using private money alone. Maybe Gramps has an out on this one.

But as for John Anderson—who enthusiastically voted for the subsidies from which he is now excluded—and Common Cause leaders—who wonder why the subsidies haven't brought us to the Promised Land—they are like a candidate in Edwin O'Connor's "The Last Hurrah." Charlie Hennessey said of the young man that "when he adds up two and two he gets five and a half for an answer." He was, said Charlie, "a good-looking youngster with nothing upstairs but a mass of floating custard."

Mr. SIMPSON. Mr. President, I might at this time relieve my colleague. The gentleman's agreement at this point is that there would be no further voting or activity or chicanery, and therefore I think that I will take the floor and continue with the remarks. I think soon the majority leader and I will be able to pose something that may be able to resolve our difficulty and we will know that shortly.

So I thank the Senator from Kentucky. He has indeed performed yeoman service. He serves in a sense as the chair of our delegation, the group that we appointed to try to resolve issues with regard to S. 2.

He had been the direct contact with the proponents' informal chair of S. 2, Senator BOREN of Oklahoma, and the two of them have worked diligently with their groups to see if we could not resolve this issue. If there is a failure to resolve it, it certainly does not reside with them. Today, I have watched Senator BOREN and Senator MCCONNELL meeting privately. I have watched them gather their groups together, and I am sure it has been frustrating for them and, indeed, I commend them. I have been deeply impressed to see how the Senator from Kentucky has entered the issue, learned the issue, done his homework, and been able to influence the colleagues in the manner in which he has done. That is what the Senate is about, and I greatly commend the Senator. I have seen the Senator grow and, indeed, participate in Senate activities in a very remarkable way, and I thank him and commend him for his efforts in every way.

Mr. BYRD. Mr. President, will the distinguished acting Republican leader yield?

Mr. SIMPSON. I yield the floor.

SCHEDULE

Mr. BYRD. Mr. President, the able acting Republican leader and I have discussed with our respective colleagues the following schedule for the rest of the night until 10 o'clock tomorrow morning. Senators on both sides will be discussing the substance of S. 2 and the committee substitute, pending committee amendment. All debate will be on substance only, and there will be no rollcall votes. There will be no quorum calls. The fact that there will be no rollcall votes carries with it the explicit element of the agreement that the Chair will not put the question. That could necessitate a rollcall vote. So there will be no rollcall votes, no quorum calls. There will be debate, speeches, limited to the substance only of the pending business before the Senate, no discussion of tactics, no discussion of yesterday, the day before, tomorrow, or the day after because that can come tomorrow, but until 10 o'clock tomorrow morning, we have a gentleman's agreement that all debate will be on the substance. This will allow those Senators who have not been asked to do floor duty, chair duty, presiding over the Senate, to go home and get some rest and be back at 10 tomorrow. There could be a rollcall vote beginning at 10 o'clock tomorrow morning. We expect rollcall votes throughout the day tomorrow, hopefully good continued discussion of the substance. I would say that I expect to go until, say, 5 or 6 o'clock tomorrow afternoon and the Senate would not be in then tomorrow night. The vote would occur on cloture on Friday morning, and I ask unanimous consent that the cloture vote occur at 10:30 a.m. on Friday.

The PRESIDING OFFICER (Mr. LAUTENBERG). Is there objection to the request?

Mr. SIMPSON. Mr. President, I believe the Senator from Arkansas rises.

Mr. PRYOR. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. And I will not object, I was listening to the distinguished majority leader. Did the majority leader give that time certain for a vote tomorrow morning, on Thursday morning, a first vote? Did the distinguished leader say there will be no vote before 10, or do we know when a vote might occur?

I am on night watch duty and I was just wondering about that.

Mr. BYRD. The Senator asked a pertinent question. I meant to say, if I did not, and probably did not say it—I will say it this way—there will be no rollcall votes prior to 10 o'clock tomorrow morning but beginning at 10 o'clock Senators are on notice that rollcall votes will in all likelihood occur. I would say at 10 o'clock there probably will be a vote of some kind.

Let me just assure that there will be because that gets everybody in. We have been operating on that kind of a basis in normal times. Of course, we are in abnormal times right at this moment. But at 10 o'clock we can expect a rollcall vote.

Mr. PRYOR. I thank the majority leader.

Mr. SIMPSON. Mr. President, reserving the right to object, and I shall not object, I would inquire of the majority leader that under the cloture petition that vote was to occur 1 hour after convening, which would have been 10 o'clock and now the request is to set that for 10:30; is that correct, I ask the majority leader?

I believe that that is what I had recalled. I had told my people that it would be 10 a.m. I am sure that this 10:30 time could be accommodated easily enough. I just inquire.

Mr. BYRD. My problem is I am confusing days of the week. I was thinking that Friday was the next day.

Mr. President, the rollcall vote will occur on tomorrow——

Mr. SIMPSON. Friday.

Mr. BYRD. I was right the first time.

Will the Senator repeat his question so I may get my thoughts in order?

Mr. PRYOR. Mr. President, I had just proposed the question to the distinguished majority leader as to what time we might expect the first vote. Those of us who on night watch tonight are interested in that, trying to maximize our sleep.

Mr. BYRD. Yes. Tomorrow morning, circa 10 o'clock, but not before 10 o'clock.

Mr. PRYOR. Right. And I think the other question, if I might interrupt, related to the vote on cloture.

Mr. BYRD. The vote on cloture will be Friday morning and I had said 10:30, but if the distinguished assistant Republican leader has made assurances, statements to his colleagues that it be at 10 o'clock, why, we will say 10 o'clock.

Mr. SIMPSON. Mr. President, I greatly appreciate that. I think it would be helpful. It is difficult to contact people. I had expressed that that would be a 10 o'clock vote, 1 hour after convening, on a motion for cloture. I also ask the majority leader,

would we waive the automatic quorum call?

Mr. BYRD. We would have to waive the automatic quorum call.

I must point out that in waiving an automatic quorum call, it does not necessarily mean that a Senator cannot put in a quorum call, unless that is explicitly included in the agreement.

Why do we not have an understanding? I will ask consent that the vote occur at 10 o'clock on Friday morning on the motion to invoke cloture and that that be a 30-minute rollcall vote.

Mr. SIMPSON. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. I thank all Senators. I especially thank the distinguished leader on the other side of the aisle, the acting leader. He is doing a good job.

Mr. SIMPSON. Mr. President, I thank the majority leader. It is a pleasure to do business with him. He has been sincere and candid. This is a very honorable approach, and it is done in the form of a gentleman's agreement. In the West, as we say, that is good enough for me.

One other thing; I know we discussed it: that on Friday, everyone should be aware that after the cloture vote, I believe you expressed what you intended to do, whether it is successful or whether it is not. Would that be something you would convey?

Mr. BYRD. Of course, if it is successful, all other business would be excluded until completion of action on the business which had been clotured.

If the cloture motion fails, then I would hope that we would proceed to other legislation and have votes and make progress thereon.

This would be in keeping with our schedule of 3 weeks in and 1 week out, with 5 days of activity, full activity, on each of the 3 weeks in, in all instances, except under extenuating circumstances.

Mr. SIMPSON. Mr. President, would that include then, the premise that if the cloture vote is unsuccessful, the bill would then be taken down?

Mr. BYRD. Yes; as I have indicated to the distinguished leader and to my colleagues, the bill will be taken down, because we will have made our case. We will have done our best to get votes on the bill and on amendments thereto. It not being within our power under the rules to force a vote on a bill or an amendment except by moving to table—and cloture is the last resort to gain such a vote—if cloture fails, I will put the bill back on the calendar.

Mr. SIMPSON. Then I would want our Members and all Members—and I believe this is correct, and I ask if this is part of this informal agreement, which is perfectly acceptable business, in my mind—that then we will go to another legislative item, some bill. We really do not know what that might be at this time. But everyone should be alert to the fact that there will be the regular Friday business and very likely a vote or two in the course of our business day on Friday, with whatever the majority leader may determine to lay down.

Mr. BYRD. Yes.

Mr. President, I think we all should live by the understanding we entered when I put forth the proposal that was well received on both sides, that we have 3 weeks in and 1 week out, and that during those weeks the Senate is in, everybody is expected to be here and to be prepared to vote—early and late, if necessary—Mondays through Fridays.

This Friday is no exception. There does happen an occasion once in a while. It happened the other day, when our friends on the other side had a retreat and we said we will not have any rollcall votes. Now the Democrats are having a retreat, or something going on, on Monday. I am not asking, nor am I saying, that there will not be any rollcall votes on Monday, but we may seek to not have too many on that occasion. But it is only when an occasion like that comes along that we try to accommodate each party here.

As to this Friday, there is no reason not to have a full day's work, and I would hope that we could call up one of the several bills, and there could be some Executive Calendar business.

I have mentioned the polygraph legislation as a possible bill. I have mentioned Price-Anderson legislation as a possibility.

I know that the distinguished assistant leader, as he has in the past, will do the best he can to assist me in getting some legislation or business before the Senate on Friday.

Mr. SIMPSON. Mr. President, in view of this remarkable court here, that makes that ever more attainable.

I assure you that we will be attentive to your need to schedule us properly. That is your right and your duty, and we will assist you in that.

This has been the singular sticking point of many weeks, and I have a genuine feeling that we can get to our agenda, whatever the majority leader feels.

We have discussed informally, between ourselves, what we have to do and what is priority, and I will leave that to the majority leader to share with the Members. I understand the import of it and the priority of it, and I assure you that I will pledge to assist in reaching that, and so will the others on this side of the aisle.

Mr. BYRD. Mr. President, I thank the distinguished Senator, and I thank all Senators who have worked with us in developing this understanding and this gentlemen's agreement for the rest of this evening and up until 10 o'clock tomorrow, when business will be as usual, on this very difficult bill. We will continue to try to make our case for it, hoping that somehow we can have a vote on the bill or on the pending amendment tomorrow, fully expecting that those in opposition will, unless there is some change of heart between now and then, probably try to avoid having such a vote.

I thank all Senators. I especially thank those who have spent their hours presiding in the Chair. I thank the Chair, the Senator who is presently in the Chair, Mr. LAUTENBERG.

I yield the floor.

Mr. SIMPSON. Mr. President, I thank the majority leader. Again, I feel privileged to have a unique relationship—or at least I feel it is such—with the majority leader. I think it is evident in the way we do our business.

We do like to get into spirited dialog; there is no question about that. We have very similar traits in that area—spirited, not exactly reticent to wade in.

He has shared this with me this evening, as he presented this basic scenario, and we were able to put that together, and we need not go into further formality. It will be done, and we will have people on the floor from midnight to 10 a.m., both sides of the issue, proponents and opponents, speaking on substance only.

We will not be referring to what has been or might be. Those things can all take place during the oridinary course of our activities from 10 a.m. until our adjournment at no later than 6 p.m. tomorrow.

The evening's activities will go on without tricks, snares, or delusions on either side; and as certain exigencies come up, they will be handled in the same gentlemanly manner that we have accomplished this agreement.

Well, now, if we were playing baseball, you would want to issue a walk until midnight. That is impossible.

Mr. McCONNELL. Mr. President, will the distinguished Senator from Wyoming yield?

Mr. SIMPSON. I yield to the distinguished Senator from Kentucky.

Mr. McCONNELL. It is my mission to drone on until midnight, and I am more than happy to do that. It is my understanding that someone from the other side will be here promptly at 12, and I will be glad to——

Mr. SIMPSON. Mr. President, I inquire of the Senator from Kentucky if he has rested.

Mr. McCONNELL. I think I am quite chipper once again and prepared to forward until midnight.

Mr. President, I ask unanimous consent that this not be considered a second speech. It is my understanding that I yielded for the purpose of work-

ing out the agreement and stating that for the Record. So, to be certain, I ask unanimous consent that my resuming speaking until midnight not be considered a second speech.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCONNELL. I thank the distinguished Senator from Wyoming for the kind remarks about my work on this issue.

It has been a pleasure to be involved in it. We have had a number of outstanding performances on both sides of the aisle. It is too bad that we could not reach an accommodation on what I felt would have been meaningful campaign finance reform on a bipartisan basis, but it appears that that will not be achieved at this time. Maybe on another day.

Mr. SIMPSON. Mr. President, from what I have observed in watching the Senator from Kentucky and the Senator from Oklahoma, seeing in writing some of the proposals that have been made in this last day or two, that in itself is extraordinary progress, when we consider that we have had seven very serious locked-up situations.

I am not even going to comment on what movement was made or in what area. That would bring down clouds of activity from all areas.

It seemed to me that you had indeed finally put everything on the table and discussed it in ways which neither side said we will not under any circumstances even brush upon the issue. I am not saying it penetrated it, but certainly you brushed upon that. I think that was an admirable approach, and that was necessary because campaign reform is necessary, and it is critical that we do it. We must do it in a way in which we are totally up front.

We know so well the strength of the Republicans, and we know so well the strength of the Democrats. It is our duty, if we are really going to have campaign reform, to kind of dig a little into each one of the secret trenches they have.

So I think that augurs well for the future. Whatever happens with regard to the cloture vote on Friday, that at least things were placed there and there were requests and overtures of cooperation in support and assistance and trying, and that could not have happened in any way without the Senator from Kentucky and the Senator from Oklahoma [Mr. BOREN] doing their work.

Again, I commend you. You have broken the ground that has not been broken before.

I yield the floor to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished acting Republican leader. It is true. We are ever so close. We had agreed on pursuing every constitutional method. We agreed on soft money disclosure. We did not agree on limitations on soft money contributions. Frankly, that is something that we had hoped to see. We had agreed on a meaningful broadcast rate discount for campaign advertising, and there is no question that is what is driving the cost of campaigns more than anything else, the cost of television. We had agreement on that.

We had agreed on pursuing every avenue that we could pursue to make it tougher for regular party candidates to be blindsided by independent expenditures, and there were a variety of different approaches we thought were appropriate. We had agreed on a bundling provision.

In summary, Mr. President, we agreed on really quite a lot. We could have passed a landmark piece of campaign reform legislation, and, I hasten to add, there is one area where we had reached agreement on in principle, and that was that there ought to be some kind of limit on political action committees, or either a lowering of the amount of individual PAC contributions, some kind of aggregate limit on what PAC's could give on some kind of acceptable formula, but, in any event, some effort to inhibit the growth of PAC's and restrict, to some extent, the influence of PAC's.

All of that would have been a meaningful, significant landmark piece of campaign reform legislation.

But alas, the sticking point, which we were unable to overcome, was the issue of a limitation on participation in campaigns by those contributing limited and disclosed contributions.

It is upon that issue that the discussion broke down. That is a terribly important issue on this side of the aisle. There are two strong concerns. One is that it is not, in our judgment, desirable, as a matter of public policy, to put a limit on how many people can participate in the process. Provided the contributions are limited and disclosed, we ought to be encouraging candidates to go out and raise as much as they can because it comes from people who give, and we ought to be happy they are participating in the political process.

To the extent that the number of individual contributors have grown over the years, we ought to commend them, not condemn them. That is progress, progress that more and more people are participating in the process.

And so that is the fundamental difference between the two sides, and it is what keeps us from passing a meaningful campaign finance reform legislation this year.

This is an issue that this Senator has had an interest in for a long time. I was never a college professor on anything, other than on a part-time basis, but in the mid 1970's, I taught a course at the University of Louisville called "The American Political Parties in Elections." It was an interesting time to be teaching because that was about the time the law, about which we are having such lengthy discussions this year, was enacted.

I remember making a number of projections about how it was all going to play out over the years. Some of those projections were right and some were wrong. One projection that was obsolutely wrong I mention at the moment really apropos of nothing, but just to point out the irony.

I said confidently to those students in the mid 1970's that the advent of the business PAC, the business-oriented political action committee, was going to really be a boon to the Republicans.

I said, "You know, organized labor has been clear, it has been consistent, it has always been on one side. You knew where they stood, and you really had to commend them for taking a position and sticking to it." I said to my students in those days, "You know, the business people are kind of reluctant to get involved in politics. They have always thought it was sort of an unseemly business. Some have contributed, but most have not done anything one way or the other."

And I said to those students back in the mid 1970's, "I bet you, with the advent of the political action committee, that business is going to get involved in politics and is going to provide some counter to organized labor. And you can just write it down those business PAC's are going to be contributing to those Republican candidates."

Mr. President, that was not a very good prediction. Labor has continued to be, of course, 95 to 99 percent in the Democratic column, but we do find that business is mostly in the Democratic column, too. So the Senator from Kentucky's predictions about the behavior of business PAC's has not been borne out.

That, in and of itself, does not make them evil. The fact they choose not to support the Republican candidates, in my judgment, just shows they made bad decisions.

It is interesting how that worked out. To the extent the American people are interested in this issue in any big way, and I do not think they are, of any list of priorities I have seen in this country, this rarely appears and certainly nobody will list it on any kind of open-ended survey as an important issue confronting the country.

But to the extent that people do think about campaign finance reform, I think what they think of is the PAC, the political action committee, the appearance that is raised by PAC contributions of some undue influence.

Mr. SARBANES. Will the Senator yield for a moment? We would like to make a unanimous consent.

Mr. McCONNELL. Yes, I yield to the Senator without losing my right.

Mr. SARBANES. Without losing the Senator's right.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that no speech be considered as counted under the two-speech rule until 10 o'clock tomorrow morning. So the two-speech rule would not apply. We would not have to worry about interruptions or speaking again, and that would apply, of course, to speeches being made from either side of the aisle. I think it would help to expedite matters.

Mr. McCONNELL. Would that apply from this point forward, including the Senator from Kentucky?

Mr. SARBANES. Absolutely.

The PRESIDING OFFICER. Is there any objection to the request? The Chair hears none, and it is so ordered.

Mr. SARBANES. I thank the Senator for yielding.

Mr. McCONNELL. Mr. President, the nub of the issue, of the issue, of course, is how to look at the cash contribution. It has been interesting to listen to some of the speeches on the other side that equate money with evil in politics. It seems to me that in a capitalistic society like ours, money is not necessarily evil in politics. Provided it is limited and disclosed, it seems to me it is not evil at all.

Robert Samuelson, who is one of my favorite writers, in Newsweek last summer, when we were earlier waltzing around this issue, had a fascinating column which appeared, as I said, in Newsweek, July 13, 1987. The headline was, "The Campaign Reform Fraud." And the subheadline was, "Money Is a Necessary Evil in Politics. Spending Limits Would Create Greater Evils."

Samuelson goes on as follows:

The Founding Fathers are growling in their graves. The Senate is now debating campaign-finance "reform": a respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, smother elections in bureaucratic rules and hurt candidates' chances of beating incumbents. It's an odd way to celebrate the Constitution's 200th birthday.

Blame that on Fred Wertheimer of Common Cause. His crusade for reform—campaign-spending restrictions and public financing—is built on half-truths. He says that campaign contributions of "special interests" have corrupted politics. They haven't. The Founding Fathers knew that special interests were inevitable. Their government of checks and balances requires compromise; competing groups check each other. The system isn't perfect, but it curbs the undue influence of campaign contributors.

Wertheimer is a genius at obscuring this. He harps on the huge rise in congressional campaign spending—up from $195 million in 1978 to $450 million in 1986—and its simplest implication: because congressmen need more money, they're more beholden to donors. The obvious answer is to limit dependence on the donors. The logic fits popular prejudices about special interests, and most editorialists and journalists accept Common Cause's claims uncritically. They shouldn't.

For starters, money doesn't determine who wins elections. Winning candidates are often outspent. In last year's Senate election, says political scientist Michael Malbin, six of the seven Democrats who ousted incumbent Republicans were outspent by an average of about 75 percent. There are too many other influences to make money decisive: the economy, party loyalties, personalities, issues, national mood. The 1986 election results, Brooks Jackson of The Wall Street Journal wrote later, suggested "that much . . . money was spent with little practical effect."

Paradoxically, campaign reform could make it tougher for challengers to unseat incumbents. If money doesn't settle elections, serious challengers need adequate minimums to gain name recognition and project campaign themes. It's these threshold amounts that campaign reform threatens. The spending limits in the bill before the Senate are below what five of the winning Senate Democratic challengers spent. In North Carolina, Terry Sanford spent $4.17 million to beat former senator James T. Broyhill. The bill would have allowed Sanford $2.95 million.

No one is smart enough to set "correct" spending limits based on population or anything else. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

I might just say parenthetically before finishing this article, we have done a little study which I referred to earlier tonight which would fit in right here. That is how S. 2 spending limits provide incumbent protection strategy.

In the 1986 Senate elections, every single incumbent who spent within the limits set by S. 2 won, without exception. Ten of ten incumbents spent within the limits.

Ninety percent of the challengers who spent within the limits set by S. 2 lost.

Ninety percent of the challengers who spent within the limits set by S. 2 lost, 18 out of 20 challengers who spent within the limits. Seventy-two percent of the challengers who won spent above the S. 2 limits. Five out of the seven winning challengers spent above the limits.

A challenger who spent above the S. 2 limit had a 63-percent chance of winning. Five out of eight challengers who spent above the limits won. A challenger who spent within S. 2's limits had a 10-percent chance of winning. Just 2 out of 20 challengers made it.

Back to Samuelson's article, he goes on:

Likewise, Wertheimer's assertion that campaign contributions corrupt the legislative process is similarly weak. You hear lots of talk about the dangers of political-action committees (PAC's). What you don't hear is:

PAC's remain a minority of all contributions. In 1986 they were 21 percent for the Senate (up from 17 percent in 1984) and 34 percent for the House (level with 1984).

The diversity of the 4,157 PAC's dilutes their power. There are business PAC's, labor PAC's, pro-abortion PAC's, anti-abortion PAC's, importer PAC's and protectonist PAC's. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($57.5 million).

PAC's give heavily to senior, powerful congressmen, who are politically secure and not easily intimidated. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions (92 percent). First elected in 1962, he won last year with 85 percent of the vote.

Of course special interests mob Congress. That's democracy. One person's special interest is another's crusade or livelihood. To be influential, people organize. As government's powers have grown, so has lobbying by affected groups; old people, farmers, doctors, teachers. The list runs on. But PAC's are only a minor influence on voting. Political scientist Frank Sorauf of the University of Minnesota reports that in 1984 the average PAC contribution to House incumbents was less than one-third of 1 percent of the average congressman's total receipts. Congressmen vote according to their political views, constituents' interests, party wishes and—yes—their consciences. Special interests were supposed to block tax reform. They didn't.

Free speech: About half the rise in campaign spending since 1978 reflects inflation. Much of the rest stems from the emergence of younger politicians who use expensive campaign consultants, television and direct mail. In 1984 Democratic House Speaker Thomas P. O'Neill Jr. of Massachusetts spent $213,000 winning re-election. In 1986 Democrat Joseph P. Kennedy II spent $1.8 million to win the same seat. But the expense of modern communication makes it no less vital for free speech.

That's why the Supreme Court held in 1976 that madatory campaign-spending limits on candidates violate the First Amendment. Public financing of election spending aims to make "voluntary" limits more acceptable. But even if voluntary limits on candidates were enacted, the problem of "independent spending" remains: if I want to buy TV time to support Joe Blow, the Supreme Court says that that's my right. Candidate spending limits would prompt special interests to raise independent spending. The Senate bill tries to deter this by subsidizing responses: my $10,000 praising Joe Blow would entitle his opponent to $10,000 of public money to answer me.

Suppose this were judged constitutional (unlikely), what's the point? In our diverse society, one role of politics is to allow the venting of different opinons and pent-up frustrations. Groups need to feel they can express themselves and participate without colliding with obtuse rules intended to shut them out. Our politics is open and free-wheeling. Its occasional excesses are preferable to arbitrary restraints. Wertheimer's

brand of reform is misconceived. The Senate would dignify the Founding Fathers by refecting it.

Robert Samuelson is right on the mark, Mr. President. Not only are spending limits offensive on their face by limiting the number of people who can participate in the process; they will not ever work. They have not worked in the Presidential system. There is not any scheme that the mind of man can devise that will successfully limit spending on political campaigns. So why try? It is not good public policy and it will not work.

Why not accept the notion that there is nothing inherently evil about a limited and fully disclosed campaign contribution? There is nothing inherently evil about a limited and fully disclosed campaign contribution. Candidates ought to be encouraged to get as many contributions as they can. The only reason these campaigns have been able to spend this kind of money is because they have been able to raise this kind of money, leaving aside the millionaire problem which everybody on both sides of the aisle would like to solve.

The astounding thing is how much money has been raised and how many people are participating, and it has grown dramatically. It has grown dramatically.

But we would like to cut the cost of campaigns and we can do it by treating the real problem in the growth of campaign spending. The cost of television, limitations of PAC's. I am not overly fond of them. Regardless of what Samuelson said, it seems to me there are some things we can do about PAC contributions.

The cost of television is really outrageous. The stations have ripped us off by raising their lowest unit rate chargeable to all customers during that period and then lowering it as soon as the campaign season is over.

All of those kinds of measures were part of the bill that the group of eight was close on. But we broke down. We broke down because we had a fundamental difference of opinion over whether it was appropriate—appropriate—to limit the number of people who can participate in the political process by making a cash contribution.

Beyond the public policy there is the practical problem with it. The base of my party across America, Mr. President, is the fellow on Main Street and the lady on Main Street who has a small business, who struggled to start it, who struggles with the myriad of different problems to keep it going, and who, as a result of that effort, is able to employ people, who create wealth and who pay taxes to keep this system going.

It has been the success of my party in attracting the support through an average cash contribution of about 300 bucks. It has been the success of my party in attracting those kinds of contributors and supporters that has allowed us over the last 10 or 12 years to go from a party which appeared to be a perpetual minority in the low twenties to a party which has risen in terms of public acceptance to the low thirties, the Democrats being in the low thirties and the independents being in the low thirties. In other words, a position of relative parity in America.

We did not do it in any immoral or unholy way. We did it by going out and getting a whole lot of support.

Our support tends not to come from the organizations. This fellow or lady out on Main Street that I am talking about typically does not belong to anything. They may belong to the Kiwanis Club, but they do not belong to an organization that has a particular interest to promote before a legislative body. Essentially they like to be left alone. They think we have enough government and they participate in the process in the hopes that we will leave them alone and let them function, let them hire those folks that create that wealth and pay those taxes. That has been the base of our party.

So we will not accept—not now, not later, not ever—a limitation on how many of those people can participate in the process. It is not only bad public policy; it does not work. And, if it did work, it would be a disaster for the two-party system in this country.

So that is where we broke down. Hopefully, we can visit this issue on another day. The Senator from Oklahoma and I talked earlier this afternoon about continuing our discussions after this matter has passed from the scene, as it probably will Friday, in the hopes that we can come up with the kind of bipartisan campaign finance reform bill that we were so close to coming up with which could pass this body 90 to 10, or maybe 95 to 5, that would not tilt the playing field in anyone's direction, and be a landmark, meaningful piece of legislation.

But that is for another day. It will not be passed this week. It is really too bad, because the current system has some flaws. This Senator has talked about it off and on for 10 months now. We can do better. We can fine tune the system. But we do not want to ruin it by putting an arbitrary limitation, which will never in any event be followed, on how many people can participate in the process.

So, Mr. President, that really concludes my observations for the evening. I was in the hopes that we would have a speaker on the other side of the aisle about this time. I wonder if the Senator from Maryland can enlighten me on that.

Mr. SARBANES. Will the Senator yield for a question?

Mr. McCONNELL. Yes.

Mr. SARBANES. It is not clear to me why the Senator asserts the position that if we arrive at reasonable limits on a campaign that that could not be enforced, could not be followed, could not be complied with.

Mr. McCONNELL. The only thing I can say to the Senator is that the only experience we have with this is the Presidential approach, which we have operated in three Presidential elections and the one we are in the middle of. Every major candidate has cheated; $1 out of $4 has gone to lawyers and accountants.

Mr. SARBANES. In the general election?

Mr. McCONNELL. In the general election as well. As a matter of fact, on the general elections, you may be interested in some figures I have. In the 1984 general election, special interests spent $25 million to oppose President Reagan. That was 62 percent of the President's $42 million spending limit. Nearly half of the money spent in the 1984 general election, $72 million, was outside the candidates' direct control. At least one-fourth of all money spent in Presidential races is unreported, unlimited, and unaccounted for. Soft money spending is roughly tripling in each election cycle and the races resemble the uncontrolled politics of the prereform era.

I am not going to go over it again, but just in summary, I cited several passages done about a year ago in the Federal Bar Journal by three employees of the Mondale campaign who had previously been at the FEC. And I will be glad to give the Senator a copy if he is interested. But just to make the point that they made, these were three people who worked at the FEC for a number of years, then went over to the Mondale campaign and were writing the article in the Federal Bar Journal in February 1987, about 3 years after the campaign was over. And I do not want to overstate this, but I think it is clear that they think the Presidential system is a disaster.

I will be happy to give the Senator a copy of it. I am not going to read all this into the RECORD again, but these are people who worked with it. They worked with it both from the FEC perspective when they were on the staff there, then worked with it with a Presidential candidate.

Their article can speak for itself, but I think the conclusion is that spending limits are not working and will not work.

My own view, I say to my friend, is that if we extend a system similar to the Presidential race to 535 additional races, the FEC is going to be about as big as the Veterans' Administration.

Mr. SARBANES. Well, I simply say to the Senator—I know he is going to leave the floor and I see my colleague is arriving—the notion that these ex-

penditures can continue to go where the sky is the limit places, it seems to me, an enormous strain on the political system. And I know it is the Senator's assertion that if you have an overall limit you are in effect then limiting the number of people who can participate by making a contribution.

But what is happening with this system is with the limited expenditure possible candidates end up spending most of their time raising money.

Mr. McCONNELL. The reason for that, I say to my friend, is not the limit. I have not advocated raising the $1,000 limit even though we have had it in the same place since the mid 1970's. But the reason is because the amount you can receive has not kept up with inflation. That is the reason. The other reason we are having to spend as much money as we are is that the television stations are absolutely sticking it to us in the last 60 days of an election cycle. That is one of the things, by the way, that the group of eight agreed to, that we should require a truly meaningful broadcast rate discount by attaching that maybe to the previous year, saying that they have to sell us the time at the lowest unit rate available for the previous year.

But even on the point of spending in general, the rate of increase is beginning to drop off. We had some dramatic increases in the seventies but it is beginning to drop off. As to the predictions that we were going to end up having $25 million Senate races in October, there is no evidence that that is going to happen and if we do something about the cost of television and if we concluded that we would raise maybe just a little bit what individuals can contribute, it would not be nearly so time consuming.

Mr. SARBANES. Does the Senator concede that expenditures can be at such levels that he would regard them as a problem?

Mr. McCONNELL. I just cannot see any evidence that that is happening. Compared to what our society is spending on almost everything else, we are spending a pittance on politics.

The Kennedy School at Harvard did several different studies on this issue and it is their conclusion that we are really not spending that much at all. The important thing to remember is that it is coming from people who are participating in the process. That is not bad; that is good, and I think an important part of participating in politics in the modern era.

Mr. SARBANES. Would the Senator carry that reasoning further and say that the more you spend, the better?

Mr. McCONNELL. Provided it comes from individual donors whose contributions are both limited and disclosed.

Mr. SARBANES. What does the Senator mean by limited?

Mr. McCONNELL. Well, they are limited now, $1,000 per person and fully disclosed.

Mr. SARBANES. As I understand what the Senator just said, he thought that figure should be larger.

Mr. McCONNELL. I have not advocated it, but if we are concerned about time, the time involved—several people have said they are spending a lot of time raising money—you cut down on the time if you raise the limit. But the public policy tradeoff, of course, is that you end up getting larger amounts from individuals. I have not advocated that because, frankly, I do not find the press of raising money very offensive. It does not take much of my time and it is going to be particularly easy, I think, now with the 3 week in and 1 week out schedule that the leader has given us. I think surely no one will ever again say to the leader, "Please protect me; I have a fundraiser." We have a week. We know in advance for the whole year when we can do other things other than Senate business, and so I do not think we are going to hear that argument any more. And if we do hear it, the leader should not listen to it because he has taken care of that problem.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before I begin, although our friend from Kentucky has left the floor, let me say anyway that I have been one of those Members of the Senate who has been working with him and a number of other of our colleagues to try to come up with some substantive resolution of this dispute. We have been unable to do so, but that in no way detracts from the real pleasure that we received from working with our friend from Kentucky, even though it has not worked. The key is the spending limit dispute. We just cannot resolve that one. To us it is at the core of this bill. But again, even though we were not able to reach a compromise on this bill, it was nonetheless a pleasure to work with this group of eight of our colleagues, and in particular I commend the Senator from Kentucky for his efforts at least in seeking a solution despite the fact that it failed.

Mr. President, the corrosive and commanding influence of money in politics has eroded the public's confidence in government. And that is the basic problem we face. We can run from the fact but we cannot hide from it for very long. There is no true objective standard perhaps to prove it, but that fact is a real one in the public mind. The public perception of government in this democracy is critical to our survival. And so I want to repeat: The commanding role and influence of money in politics has eroded the public's confidence in government. It is a terrible indictment of the present system. It is a command to us to change it, or at least to try to change it. And when I hear our friend from Kentucky say that no scheme in the mind of man can be devised to successfully limit campaign spending, I have a different answer to that point later, but my point at the moment is we at least can try—I think we can succeed—in devising limits on the corrosive, intrusive and at times obscene influence of money in the body politics of this country.

Now, we all know in our hearts and our minds just how much time we have to spend to raise money. And each one of us has to decide whether or not that is the way a Member of the Senate should spend such a large amount of his or her time. Each one of us knows the answer to that question. Perhaps we answer it differently. But at least all of us know the answer in our heart.

I am not the one who is saying that the influence of money in politics has eroded public confidence and that it is too commanding and corrosive. It is the public that is saying that.

The American people were asked the following question in a Harris poll late last year: "Do you feel the excessive campaign spending in national elections is a very serious problem, only somewhat serious, or not a serious problem at all?" They were given three options in this question, and 62 percent of the American people said it is very serious, 29 percent said somewhat serious. So 91 percent of the American people said that it was either very serious or somewhat serious. And when that large a percentage of our public has reached the conclusion that excessive spending is a problem in national campaigns, we have a problem. We have a problem of public confidence.

As people who represent the American public, we have an obligation to try to do something about it. Are we sure we will succeed? No.

Are we obligated to try? You bet. Because when there is a public perception that this body and the body down the hall is dominated by money, we better address it, and we better address it fast if we are going to be worth our salt.

Some of the editorials that we read reflect the feeling of the American people.

The Washington Post on July 1, 1987, noted the following:

> The average Senate election now costs $3 million. To amass that much, a Senator must raise $10,000 a week, 52 weeks a year, every year of his term. Let him miss a week for some reason—could it be the press of legislative business?

The editorial asks ironically—

> Then he must raise twice that much the next week, three times as much the week after that. If he represents a large State or

fears a strong opponent or wants to scare such an opponent off, he must also raise more than average. And they do.

The editorial continues:

The system has become obscene. Its defenders argue that the money now in politics is a sign of vigor, a healthy form of participation. Yes, up to a point. But that healthy point is passed. The ceaseless quest for money absorbs the entire Congress not only in election years. The National Journal recently compiled the amounts that Senators not due to run until 1988 or 1990 had raised by 1985 and 1986. By the end of last year—

In other words, by the end of 1986—

four of the Senators likely to run in 1990 had already raised more than $1 million, one was only $15,000 away, two more had raised more than $700,000. What notion of good government is served by that?

Asks the editorial. It goes on to say:

The Democrats seek to restore a sense of proportion to this process. They would impose spending limits. The Supreme Court has said that to satisfy the First Amendment, spending limits must be voluntary. As a practical matter, that means they must be in return for Federal funds. Republicans object to public financing of congressional campaigns. The Democrats therefore moved successively to minimize the role of public funds. Their latest proposal is that a candidate could get such financing only if he agreed to abide by the spending limits for his State and his opponent did not. The public money would only be an insurance policy. It was easy for Republicans to block the Democratic bill when it contained a large measure of public finance. They could stand on principle.

Now the issue is more clearly delimited. Hard liners still resist the bill on the grounds that Republicans, who are better fundraisers, would be condemning themselves to permanent minority status. But money is not what will deliver the Senate to Republicans, nor in the long haul can it be healthy for the Republicans to link themselves to this iron lung.

Let me quote from another editorial in the Post on July 29, 1987:

The excess of the present system of Congressional finance will in the long run stain those who support it . . . At some point in a process such as this, a candidate is no longer running for office so much as trying to buy it. The amounts are not just obscene; they are insane.

The February 1987 edition of Conservative Digest reported the following:

When our current "class of Senate freshmen runs for reelection in 1992, the average Senate campaign will cost $9 million."

This means that during the 6 years these individuals are in the U.S. Senate, for their next election they are going to have to raise $125,000 every month, $28,846 every week, $4,109 every day—Saturdays and Sundays included—$171 every hour of every day, 24 hours a day, 7 days a week, for 6 straight years.

Mr. President, that is not why we are in the U.S. Senate, to be raising $125,000 on the average, each month for our reelection 6 years hence.

We have heard S. 2's proposed public financing for congressional campaigns labeled a raid on the Treasury. Listen to what some Senators said about public financing of Presidential campaigns, which is now an accepted part of our election process, when that proposal for public financing of Presidential campaigns came before this body 17 years ago.

Senator Bennett of Utah doubted "whether the Federal Treasury and the U.S. taxpayers should be called upon to bail out the Democratic Party from its present financial crisis."

Mind you, this is 17 years ago, talking about Presidential campaign financing, which is now an accepted part of our Presidential elections.

Former Senator Tower said: "This so-called reform effort is nothing more than an attempt by a group in Congress to grab taxpayers' money for their own end."

Our own distinguished Republican leader, our good friend, Senator BOB DOLE, said that "the public financing plan was a blatant partisan attempt to fund the Democratic opposition to President Nixon" and "to ensure the success of this effort to fund Gov. George Wallace's third party, and thereby take away from the President as many votes as possible."

That was all said in 1971—again, about the Presidential election reform that we adopted and which now has a broad consensus. Times change; innovations and reforms once thought radical become integral parts of the system. I believe that within a few years, the current system of congressional election financing will be nothing but a bad memory, and some kind of limitation on campaign expenditures will be seen as American as apple pie and the Presidential campaign checkoff. We do not have any alternative but to reform the current system.

Senator BOREN, whom I commend for his fine work in drafting this legislation and for his effective defense of its provisions, has pointed out that the average cost of a successful Senate campaign was $600,000 in 1974 and $3 million in 1986. It went up 500 percent in just 12 years, and he predicts that without spending limitations, that $3 million will be $15 million 12 years from now for the average-sized State.

In California, just a few years ago, Senator CRANSTON was forced to raise $10 million and his opponent spent almost $12 million. Using Senator BOREN's projections, a successful candidate for the Senate from California in 1998 will be spending over $50 million. To put it simply, Mr. President, I do not think we can allow this to happen. Long before it does, we must do something about it, and we should do it now.

Some opponents of S. 2 refer to it as a giveaway of taxpayers' money. One of our colleagues said some months ago that he did not think the American taxpayer is interested in putting up $95 million or $100 million to finance campaigns of Senators. Under the provisions of S. 2, we no longer have that form of public financing. Public financing is only a standby provision in S. 2. It is only triggered if the opponent does not accept spending limits. It only comes into play to keep the playing field level.

When polls are taken showing that Americans oppose public financing, those polls, so far as I know, have not asked the question which is relevant to this bill, which is whether or not Americans would support standby public financing in the case one's opponent goes above the limits which are set by law in order to equalize the battle.

Americans have an inherent sense of fairness, and I believe they will support, if they are asked the accurate question in a public opinion poll, a question which is put this way: If limits are set on campaign expenditures and if one side goes above those limits, would you then support the use of a voluntary checkoff in order to equalize the battle?" I believe the answer to that question would be a resounding "Yes."

As I have indicated, public financing of Presidential elections is now an accepted part of the American political scene. In a 1986 study—and here I am quoting an editorial of the Grosse Pointe News, Grosse Pointe, MI, in May 1987—in a 1986 study of the Presidential election system, the Commission on National Elections, headed by a former Secretary of Defense and ex-Republican Congressman, Melvin Laird, and a former chairman of the Democratic National Committee, Robert Straus, came to this conclusion:

Public financing of Presidential elections has clearly proved its worth in opening up the process, reducing undue influence of individuals and groups, and virtually ending corruption in Presidential election financing.

Surely, if it has accomplished that in Presidential elections, we can give it a standby function in congressional elections, to be triggered when, and only when, one side in the battle goes above the limits which are set by law. That form of financing Presidential campaigns is proven. Thirty-four of the thirty-five candidates for the Presidency since the law went into effect have participated in the public financing system.

In the 1988 elections, all of the major candidates have accepted spending limits and public financing. President Reagan accepted public financing in his 1976, 1980, and 1984 Presidential campaigns.

In a moment, I will comment on the question of whether or not spending

limits favor incumbents; but at this point let me simply say, relative to the public financing and spending limits in Presidential elections, that the system has not proven to be an incumbent's protection plan at all.

In two of the three Presidential elections under public financing and spending limits, incumbents have been defeated by their challengers. In 1976, both sides accepted limits and public financing, and the challenger defeated a Republican incument. In 1980, both sides accepted limits and public financing, and the challenger defeated a Democratic incumbent. In 1984, the Republican incumbent won, and again both sides accepted limits and public financing. In two of three cases where public financing has been used in Presidential elections, the challenger has defeated the incumbent. Hardly an incumbent's protection measure.

There is an additional point on this question of public financing. I agree that many Americans do not particularly want to spend hundreds of millions of dollars on congressional elections. As I point out, we do not know whether any money would be spent, because it is only a standby proposal in order to level the playing field, in case one side goes above the statutory limits.

In any event, there is a possibility that some public funds could be used to finance one or more campaigns. I am not arguing that anybody is thrilled about that, but I have to say that I do not think most Americans are very happy with a system where hundreds of millions of anybody's dollars are spent on Senate elections.

Does anyone really believe that many Californians find it appropriate to spend $21 million of private money in a Senate election, or that $100 million will be appropriate for the same election 1998?

In a few years, we could be spending several billion dollars to elect a Congress. How is the public interest served by that, even if there is no public funding at all in those billions?

I quoted a poll before, and I just want to quote one other question from that poll at this point. This question addressed the question of whether or not one candidate who is adept at raising money should thereby have an advantage over another candidate in the eyes of the public. This goes to the question of the innate fairness of the American people and their determination that there ought to be a level playing field in the area of campaign finance. This is a basic assumption and belief that is embedded in S. 2, in the standby public financing, which would only be triggered in the event one side went above the limits.

Here is the question that was asked of the American public in this poll. The sample was asked whether they agreed or disagreed with the following statement:

"Campaign spending is now an area of legitimate competition, and if one candidate is better at raising money than another, that candidate deserves an advantage." Only 27 percent of the public agreed with that statement. Seventy percent disagreed with it. So the American people want competition all right in politics, like in everything else, but they want competition to be fair in politics like in everything else; just like in trade, by the way, assuming that we are going to be addressing it at great length, hopefully, this year to try to insist on some fairness in trade. Sure we want competition between us and foreign competitors, but we want fairness in that competition, too.

And in the area of campaign spending, Americans want competition, but they want it to be fair; 70 percent disagreed with the statement that if one candidate is better at raising money than another, that that candidate deserves an advantage.

I think we underestimate the American people by some of the arguments that have been heard in opposition to this bill.

I have talked about whether this bill is an incumbent proctection act. It has been argued that it is. As a matter of fact, I believe that the status quo is the incumbent protection system. It is the current system that protects incumbents, not this bill. In 100 campaigns over the last 6 years, the 100 campaigns that brought us here, the incumbent was outspent by a challenger only seven times, and in only two of the seven did the challenger win.

Perhaps the most significant cause of this disparity in favor of incumbents is the way political action committees chose to allocate their funds. in 1986, PAC's contributed $132 million to congressional campaigns, up from $12 million, by the way, in 1974. Eighty percent of PAC contributions in 1986 went to incumbents. Why? Because obviously an incumbent is usually a safer bet than a challenger. Besides, I guess, if the challenger can win, the PAC can always write him or her a check after the election.

Not only is this present system unfair to challengers, it is also unfair to the electorate. In the 1986 elections, there were a number of Senate incumbents who had easy reelection campaigns because strong would-be opponents were scared away by PAC money that the incumbent had accumulated over the previous 6 years.

It is no secret that both of our parties had to scamper around looking for candidates in a couple of instances where no one wanted to challenge a well-financed incumbent. It is not good for the Senate, and it is not good for the American people.

So it is not this bill which is an incumbent protection act. It is the status quo which protects incumbents.

Let us take a look at how the limits in this bill would have affected elections over the last four election cycles. Incumbents: 45 incumbents went over the limits of this bill in the last four cycles; 45 incumbents. Challengers, 19.

We will start with that figure, and we will take it one step further. But just looking at that figure alone, 45 incumbents went over these limits in the last four cycles.

By the way, those 45 spent over $64 million over S. 2's proposed limits.

Sixty-seven incumbents stayed under these limits, assuming these limits had been in effect. Challengers, only 19 went over these limits. Ninety-one challengers spent less than these limits.

So just looking at that figure alone, you have got over twice as many incumbents going over these limits as you do challengers; again assuming that these limits have been in place in the last four cycles.

But then you look at the 19 races where challengers went over these limits, and, in 18 of those 19 races, the incumbents went over the limits, too. So we have only one case in the last four election cycles, only one case that I know of, where a challenger exceeded the limit that this bill would have set but the incumbent did not also go over the limit. In only one case.

And if you look at the total amount of money, the total amount of money in those 19 races that these challengers went over these limits and compared to the total overage that the incumbents went over these limits, you find another part of the story.

Incumbents exceeded the limits in those 19 races where the challengers exceeded the limits by $41 million. Challengers went over by $27 million.

So where is the incumbent protection act in this bill? It is the status quo which protects incumbents.

Mr. President, I want to spend the remaining time that is available to me, under our gentleperson's agreement, by talking about PAC's and the provisions in this bill relative to PAC's.

The plain truth is, as many of our colleagues know, that a good many Americans believe that most politicians are corrupt. The headlines link that corruption to our continual search for campaign funds. "PAC's Hold Mortgage on Congress." Now, that headline did not come from the National Enquirer. That headline came from the Christian Science Monitor. If we do not worry about headlines like that, and there are many, then we are not carrying out the responsibility that has been entrusted to us.

Many papers are more restrained than that headline. They do not draw

the explicit link between contributions and votes. They just simply allow, or perhaps encourage, their readers to draw those conclusions.

So we see the Wall Street Journal tell readers, "Insurance Industry Boosts Political Contributions as Congress Takes Up Cherished Tax Preferences." And the Washington Post reports that, "PAC's Donated $16 Million to Tax Bill Writers." Those are the news stories.

When you want to see a point of view more explicitly expressed, just take a look at some of the editorials: "Congress Still for Sale," suggests the Albuquerque Journal. "Limit PAC Receipts Now or Put Democracy at Risk," warns the Globe Times in Bethlehem, PA. "PAC's Buy Too Much Influence in Congress," claims the State, a newspaper in Columbia, SC. And how about this simple and direct evaluation of PAC power from the Greensboro News and Record in North Carolina, and this was really pungent: "Buying Congress."

No matter what we do and no matter how we behave, the truth of the matter is that the appearance, and it is an appearance issue when we are talking about PAC's, the appearance is less than pristine, and we ought to worry about those appearances. By the way, it is not just the media which creates these appearances. We do it as well, sometimes unwittingly in some of the rhetoric that we use.

This is some of the language from a "Dear Colleague" letter which was circulated a couple years back when we were still debating the question of PAC limits, and here is what the writers of that "Dear Colleague" letter said about the threat of putting some limits on PAC contributions in an amount which was being considered:

> The amendement's limits will confer a disproportionate advantage * * *

That is the word that was used by our colleagues:

> * * * upon the largest, best financed interest groups by permitting those with larger amounts of ready cash to move quickly and contribute where they choose before limits are exhausted.

So people who are then opposing the PAC limits in the Boren amendments, people who are opposing those limits were acknowledging the advantage which these contributions confer.

Now, what is that advantage we are giving to those who contribute more and early which we are denying to those who contribute late and less? Even those of us who know better begin to adopt the language of influence peddling.

To some degree, we actually have a vested interest in suggesting that contributions can affect behavior, because that suggestion is what gets many PAC's to make their contributions.

I am not suggesting that there is a link between our behavior and PAC contributions. I am not suggesting that because I do not believe it. Not all Americans are skilled in detecting the existence of the post hoc, ergo propter hoc fallacy. They see one thing happen, then they see something happen after that, and they believe there must be a causal link between the two. We know the logic is fallacious. But we also know that a lot of people believe that if they walk under a ladder or break a mirror, they will have bad luck, and the fact is that PAC's, like individuals, tend to support people whose views they identify with. In other words, PAC's do not buy votes, they support candidates whose voting records they like or whose philosophies they share. But too many people believe that unlimited special interest contributions buy the vote and support of politicians.

We must, in our national interest, end that kind of a corrosive belief. The continued belief that Congress is up for auction destroys the public's faith in government, and that ultimately can destroy our form of government.

S. 2, does not prohibit PAC contributions, but it puts some limits on them. It establishes aggregate limits on the total amount of contributions which candidates can accept from PAC's during any election cycle. For Senate candidates, the limits would vary based on the size of the State, ranging from $190,950 in smaller States to $823,000 in larger States.

For House candidates, the limit would be $100,000.

The critical point is this: Had these limits been in effect in the 1986 election, PAC contributions to Senate candidates would have been cut by two-thirds, from $45 to $16 million.

Well, maybe it is a modest step to put some limit, just some reasonable limit, on PAC contributions to campaigns, but it is a step that should be taken. And I believe one step in this matter will move us toward renewed public confidence in the political process.

The problem that has been caused by the growth of PAC's in these elections again, Mr. President, is principally a problem of numbers as the number of PAC's has tripled and tripled again over the last 10 years from 600 to around 4,000. As PAC contributions to Senators and Representatives increased to over $130 million more and more often we have been portrayed as being for sale. Virtually all PAC's represent groups of organizations concerned only about a single issue or a narrow set of related issues. To the general public it just simply looks too often as though issues are being decided not by the merits, not by the merits of the arguments presented by different sides, but by the weight of the dollars spilling into congressional campaign coffers.

There may be no real difference between 10 lawyers each giving a Senate candidate $1,000 at a lawyer' reception, and a lawyer's PAC giving that candidate $10,000. But there sure does appear to be a difference to the public for at least two reasons:

First, individual donors are far more likely to consider a candidate's entire record and personal integrity in deciding who their dollars will support, while PAC's generally consider only how they voted or how they would vote and support the PAC's narrow self interest.

Second, PAC contributions can be and are linked by numerous commentators and observers to votes on issues in which the PAC is interested. The public reads of those linkages and is disgusted, and understandably so. Is the linkage fair? Maybe not, but it corrodes democratic institutions.

Do PAC contributions buy votes any more than individual contributions? No. Are they made more easily to appear that way? They sure are. We just simply cannot ignore those newspaper, magazine, and TV reports which detail the PAC receipts of Members of Congress who act on legislation that those very PAC's are most concerned with.

Every time one of those articles appears—"PAC's Hold Mortgage on Congress," "PAC's Donated $16 million to Tax Bill Writ" "One-third of House Members Relied Mainly on Interest Group Donations," "Congressional Candidates Were Given $104 Million by Special Interests"—every time one of those articles appears, the integrity of the Congress slips another notch, for much of the public believes that elected officials, politicians, are often less than reputable characters. New evidence is provided thereby for that proposition.

The fact is that in the election before last, 163 Members of Congress received over half of their campaign contributions from PAC's. I think that elevates the problem's appearance to a whole new order of magnitude. More and more it is made to appear that special interests are taking over and that this Congress is for sale.

We are not. Those of us who work here, who struggle here, who labor here, know we are not. We have an obligation to prove we are not and we have to eliminate any appearance that we are. We have to care about appearances. We deal in appearances every day, and appearances become real. It is our obligation to deal with them.

We cannot simply say, "Well, that is an appearance problem." It is an appearance problem which corrodes the foundation of this institution and we have to do something about it.

We have to do something about the time we spend, by the way, in raising all this money. It is not just that these

linkages can be drawn between the single-interest PAC's and how we vote, linkages which I believe are unfair but linkages which are drawn, nonetheless.

We spend just too darn much time in raising money and we have to end that. We have to reduce the amount of time. We cannot end it. We know that. We are realists. But we have to reduce the amount of time that we spend in raising money.

(Mr. SANFORD assumed the chair.)

Mr. LEVIN. Again, the average cost of winning Senate campaigns increased in 8 years from $600,000 to about $3 million. That is almost a 400-percent increase in just 6 years.

In my own case, I spent less than $1 million in 1978 but spent more than $3.5 million in 1984.

One other provision of this bill that is an important one and related to PAC's is the provision which would prohibit the practice of bundling, whereby PAC's serve as conduits for individual contributions which they solicit and collect and then present to a candidate without having those contributions counted against the PAC's own contribution limits.

Mr. President, without some kind of limits, without some reasonable kind of overall PAC limits, public cynicism is going to grow and Congress' reputation and credibility are going to decline. We must address appearances when they shape public attitudes, particularly when those attitudes provide the basis for public support. That support is critical if democratic institutions are going to prevail.

We ultimately depend on public confidence. And that public confidence is shaken. The poll figures that I have read indicate that over 90 percent of the American people think that excessive spending on Federal election campaigns is either very serious or serious as a problem.

When the appearances have gotten to that point, when the problem is that severe, we have an obligation, I believe, to address it, and address it we must.

One of my State papers in April 1985 put it this way:

> It is very seldom one could say that any Member of Congress voted a certain way on controversial legislation because it was in the interest of a friendly PAC contributor. But the appearance of that kind of influence buying in Congress is clearly there and is growing in terms of dollars donated in each new election campaign.

The editorial closes with this question: "Does anybody care?"

That was almost 3 years ago now. We still have not answered the editorial "yes." I hope this week we will answer yes. If we do not, the problem will not go away. Public confidence will continue to decline in this institution, in this Congress, because the public perceives us as too often being for sale. That should hurt us. It should move us. It should make us mad. It should infuriate us. It should energize us. It should motivate us. Not just to try to persuade the public, "Wait a minute. There is no difference between a lawyer's PAC giving us $10,000 and 10 individual lawyers giving us $1,000."

There is a difference. Indeed, there are two differences which I see, and that is that the PAC has a single, focused interest, whereas 10 individuals have many interests. They look at our character, they look at our integrity, they look at our position on a varying range of issues individually, whereas most PAC's look for one thing: What is our position on a particular area of interest to them?

Is it legitimate? Of course it is legitimate. Does it create a problem? It does create a problem. And we must address it.

I hope we carry out our obligation to address it. This bill is not a cure-all. I might have written parts of it a number of different ways. That is not the point. It is an honest effort to try to put some lid on campaign spending; to bring those of us who are out raising money too often, with too much of our time, back into these halls and to these committee rooms, because this is where we belong, all of us, just about, except for those who do not spend any money on campaigns. All the rest of us just spend too much time raising money for campaigns. That is not what we are here for.

Again, this bill is not the cure. The cure is a lot deeper than this. But it is an important beginning. It will at least tell the public and reassure the public we are trying to do something about a problem which all of us recognize, by the way. I think many people, perhaps most people who even oppose this bill, recognize that we have a serious problem of public confidence in this institution.

We know that those public opinion polls showing that huge percentage of people thinking that money has too big an influence on national elections is reflected in our own States. It is in mine. This bill will do something about it. I hope we do something about it.

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

Mr. President, I withhold that request.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from the State of Washington.

Mr. EVANS. Thank you, Mr. President.

Gratitude to the President and the other distinguished Senator in the Chamber, the Senator from Michigan.

Why are we here? I really wonder sometimes why at 1 o'clock in the morning with virtually no one around we are attempting to carry out the great function of unlimited debate in the Senate. As I came over here from my office, I was really struck by the fact that we have elevator operators, people running the subway, security officers, a number of them, staff who are sitting here inside the Chamber, and the staff outside the Chamber, young pages who are awaiting our needs, and now dedicated and cheerful each one of them was as I greeted them.

As I stand here now, I am reminded of only one quote, and that is of Abraham Lincoln in his famous speech at Gettysburg when he said "The world will little note, nor long remember, what we say here." And all I can say is Amen for what is now going on, and I suspect they will little note what we do here as well.

Let me for some period of time at least talk about my own perspective and history and views of campaign finance and perhaps some of campaign finance excesses.

Perhaps in the later part of the time I have been given I might even revert back to a little history of previous times in the Senate because they might be instructive to all of us, not specifically on the issue of campaign reform but perhaps on what we are doing here and what we should be doing here.

It seems to me that every time we try reform, especially in an area like this, we create yet another evil. With great fanfare, more than a decade ago, we tried campaign finance reform. We thought at that time the amount of money spent was growing out of proportion, that we would, if let go, find ourselves in terrible shape in terms of the equities of campaign finance, in terms of the fairness of campaign finance, in terms of who might get elected, who might sort of own the country. Interestingly enough, one of the reforms of that era was to allow people inside a company or an association or an organization to join together in their campaign donations. The idea then was to give people a chance to find a way to bring their campaign donations, small as they might be, together in sort of a conduit, if you will, to various campaigns throughout the country.

That was viewed as a reform at that time. And of course, that reform was the invention of political action committees. And now here we are more than a decade later talking about the evils of political action committees and deciding that somehow we have gotten way out of bounds, that evils surround us. I suspect, although I have not done it, if we went back and looked at the speeches given in the mid 1970's, we would find many of the same words being used today, many of the same potential problems being expressed as

today. It is sort of the cycle we go through on many issues.

I had an occasion during research on a bill not too many months ago to go back and read the speeches given on that issue about a generation ago. On a bill I introduced to suggest that people ought to get paid what they were worth, the idea of measuring one job against another on its value and paying people under what is called comparable worth, the U.S. Chamber of Commerce and the National Association of Manufacturers and other organizations erupted in a paroxysm of opposition. They said, of course, we ought to pay people equal wages for equal work but you certainly could not go around that and measure work in some comparative sense. It just simply was not logical. And so I went back and looked at the speeches which had been given and the testimony which had been presented a generation ago when the bill equal pay for equal work came before the Congress.

Interestingly enough, in the committee reports, the National Association of Manufacturers, the U.S. Chamber of Commerce, and others of the same organizations were saying you simply cannot have equal pay for equal work; it would devastate the country. It is almost as if they reached back into history and pulled out those same arguments to be used a generation later when the issue just shifted a little and then, interestingly enough, they based their case on what they had opposed a generation before.

I think there is something of that nature going on today in campaign finance reform. We talk about the evils, how extraordinary they are, and yet the evils are the very same things we created more than a decade ago as the solution for previous evils we say.

So what is going to happen if this bill, as it now sits, passes? Are we going to come back another decade from now, have our speeches and our actions pulled out and examined and find that we are being pointed at as the producers of an evil that will exist some time in the future?

Well, I hope not. And that is why I think we ought to be very careful of what we do. I am a great believer that we ought to examine history and examine history very carefully before we take action in almost any direction.

Let me first talk about political action committees. Are they inherently evil? Have they become evil in the course of a 14-year period when they wee touted at their beginning as being a correction for evil?

Well, I am not so sure that they are so absolutely evil, for what are political action committees anyhow? They are a collection of people representing an interest. It can be a business interest, it can be a labor interest, it can be an environmental interest, it can be an interest of almost any kind of the thousands of what some people call "special interests."

But we all have special interests. We all have special interests because we are individuals and we choose to focus on certain things that are of particular interest ot us.

Unfortunately, in this drive for reform, we have made the term "special interest" in itself an evil term. There is no inherent evil in a special interest. Certainly those who espouse the cause of a handicapped child and who have joined together in an interest in that cause and who may even raise campaign moneys and who may even create a political action committee and who may even donate to a candidate are then thrown in the cauldrin of special interest.

Well, I can substitute almost anything for handicapped child and the same thing applies.

I remember vividly the very first political action committee donation I received when I ran in the special election for the Senate in 1983. I was invited to a dinner of a medium-sized company close to the city of Seattle. It was a dinner honoring people in the company who had taken part in political activity, and they had taken part in political activity on both sides of the political spectrum. They had taken part in political activity in causes that had no particular partisan orientation, and among the other things they had done was contribute to the political action committee of their company. When I say their company, this was an audience of several hundred employees of a company that might employ 1,000 people but probably not.

So it was a pretty good and substantial cross-section from top to bottom of people who were participants in that company in the political process. Would they have been if that company had not taken an extra effort and had created a political action committee and had opened up the conduit and the opportunity for those people to contribute? I do not know. They might have. But I think the chances are probably smaller that the same number of people would have gotten involved.

At any rate, the program was an interesting program, not partisan or politically oriented particularly. It was devoted to trying to help those people who had first to recognize what they had done in being involved in the political activities of their community, but it was designed to inform and to broaden their opportunities to participate. I think it was done in a very fine way.

Well, maybe the reason I thought it was such a fine way is that, among other things, they had chosen to support my candidacy and so they presented me with their political action contribution. And it was for the maximum that they could give for this election campaign, or at least as I remember it, it was $2,000. But it did not come in one check. It came in probably 50 to 60 checks of varying sizes, each from the individual who had chosen to make that political action contribution.

Now, is that evil? Is that bad? Is that tearing apart the fabric of America? I think quite the contrary. It may be helping by bringing that many more people into the political process, giving them a chance to contribute in relatively small amounts but have the feeling that those small amounts were gathered together to represent an interest that they thought was important, and that interest was their own company and their own activity.

I do not think for 1 minute that they contributed to me because they thought that was buying something, they thought they were buying support for everything for which that company stood. No, I think quite the contrary. They provided that particular contribution for the same reason I believe an overwhelming percentage of contributions of all kinds are given to any political candidate, and that is because they believe that that candidate already in his or her fundamental beliefs and past practice has shown they are in harmony with or have some association with the beliefs and the ideas of those who contribute. Frankly, I get very upset when I see people waving their arms and expounding on the buying of candidates and the buying of office holders as if this was a large mart in which the chance to have your bill or your issue go through was up to the highest bidder, and that everyone sitting in this Chamber, all 100, would wave in the wind, would go this way or that way on a particular issue, being bought by a political campaign contribution. There is not a Senator here who really believes that. Certainly, they do not believe it for themselves, and I do not believe they think it is true for others, either.

They know very well, from the campaign contributions that come to them and from the campaign contributions that come to others that, as I have said, for the overwhelming part, our campaign contributions come because they believe the candidate they support already represents the kinds of policies and the kinds of fundamental political principles that they would hope someone would have in public office. I even think that there is a pretty good share of those who contribute to political campaigns who ask for not much more than that an officeholder be honest, straightforward, speak and vote on the basis of those principles that they believe this candidate has. That is what we all seek in those we send to public office.

Are political action committees any better or any worse than an individual who contributes to a political campaign? Just draw the parallels between individuals and political action committees. The very same people who contributed in the political action committee of the company I mentioned could have contributed those small checks to me separately, and no one would have thought that was bad. All those who are working so hard for this bill or for campaign reform would have thought that is the way campaign financing ought to occur.

Of course, there is nothing that prevents any of us, as candidates, from putting those voluntary requirements on anyone who contributes.

I could have said: "I'm sorry, I can't accept this group of checks which comes to me as a campaign contribution from the political action committee of this company. But if you will just separate them out and have each one give them to me separately, that is OK." Just what in the world is the difference?

Or, you can have an individual who chooses to give a bigger amount. Individuals cannot give quite as much as a political action committee, but they can come pretty close; because the limit we have placed on one election, $5,000, for political action committees can be matched, and often is, by an individual of considerable wealth who chooses to give $1,000 campaign contribution on his behalf, $1,000 which comes from his wife, and $1,000 which comes from each of several grown children. It can be easily as much as a political action committee donation.

Is that evil? Is that bad? No. I think we ought to really start talking about evils, if there are any, and try to find the real evils and the real problems rather than the imaginary ones, the ones that make convenient demons for all of us in this debate.

Some suggest that public financing is a good idea. I recognize very well that there has been a sharp change in direction in the concepts of public funding in S. 2. In fact, S. 2 has had as many different faces as almost any piece of legislation I have seen in this Chamber in recent years. It regularly changes its face, seeking to go one way and then another, in an effort to gain sufficient strength. But the aura of public funding has always hung over this particular piece of legislation. Now it is being used as an effort and a way to try to, well, keep people under campaign limits, and that is all we are doing.

Let us look a little bit at the current use of public funding. Many on this floor—and I have listened to a number of them—have talked about the validity of public funding of Presidential campaigns and what a grand thing it is, and it has cut down what otherwise would be large spending. Maybe it has had some benefits. It is hard to say that there is much of anything we do around here where you cannot perceive some small benefits. So I think you have to measure the benefits against the problems that arise along with them.

Candidates who accept Presidential public funding put themselves under some stringent campaign limits. They can only spend a certain amount of money in each primary State. They are limited to spending a certain amount of money in a total campaign.

Look at the spectacle of what has been happening during this primary season in 1988. Campaign workers fly in and out of Iowa, under no perceptible pattern. Why would someone come into Iowa, devoted to working in that State, stay there for up to 5 days, and suddenly fly off for a day or 2, only to come back in? One reason: because by doing so, they escape having that particular salary assigned against that particular State, and thus they can sneak around those campaign limits.

Or, if it looks like you are getting up very close to the limit and you still have an intense amount of campaigning you would like to do in that State, you end up going to the nearest border city, over the line in a neighboring State, and you rent your cars there and then drive them into the State and use them for campaign purposes and drive them back and turn them in, in that bordering State. It does not apply to that State that has those limits.

Every time we put in a limit, we tend to create those who will find a way around, through, over, and under the limit, to carry out their particular purposes and to meet what they perceive to be their particular needs.

We have created campaign staffs, one after the other, each one bringing into the political system new, young people devoted to a candidate and devoted to a campaign. And what are we teaching them with this campaign fund limit? What are we teaching them? We are teaching them to cheat, constantly, and in every way possible, in order to get around that limit. Is that the kind of thing we want to do? Is that the legacy we want to leave, to just spread that whole concept, so that we can teach a whole new generation how to get around the campaign limits which have been set?

It is easy to say, "Well, that is not what we should be doing." Of course. If limits are put on there, we ought honestly to live up to them, but it is always a gray area. Some people can say it is perfectly legitimate to come in, since you have set the limits and the rules, and you say that if you stay more than 5 days, you have to assign the salary to that particular State. It is not breaking the rules. It is not really doing anything bad to come in with that limited time and then back, in and out. But I am not sure it is that kind of marginal morality that we ought to be promoting in the Senate on this issue or on any other issue, for that matter.

Mr. President, I am getting tired of the constant concept that keeps getting quoted, that somehow money is equated to crookedness. It is not often said in that blunt an equation; but, boy, do the statements reek with that kind of inherent understanding: Too much money leads almost inevitably to excesses, and excesses lead to evil, and evil leads to crookedness and immorality, and that almost no one who has a campaign financed, in whatever way it is financed, by small contributions or large, by broad or narrow, but a campaign that is financed with a substantial amount of money, can therefore not be honest.

I have heard my distinguished colleague from Michigan a little earlier this evening read poll after poll, talking about precisely that, about people and their perceptions of campaigns and money used in campaigns, and whether people are influenced, and whether people are influenced or crooked as a result of the amount of money spent on a campaign.

Well, of course, the polls will show that, when there is a steady drumbeat of charges from those they listen to who assert that.

Mr. President, we have seen in the course of the last month or so one of the most blatant misuses of a charitable organization's charter to conduct an open political attack, and that was done by an organization devoted to reform, an organization very strong in its support of S. 2; and that organization, of course, is Common Cause.

Mr. President, John Gardner, the distinguished founder of Common Cause, a number of years ago—in fact, shortly after its founding—called me and asked if I would serve on the national board of Common Cause. I was proud to do so and did for a short period of time. Then I left office as Governor and did other things.

Mr. President, I fear that an organization which I felt was one of the finest in the country at that time has come to a point where, unfortunately, I believe the emphasis today is far more on the "common" than on the "cause." When an organization such as that blatantly misuses the funds which have been contributed to them by the supporters of Common Cause in a raw, political power play, I think that goes far beyond the bounds of an organization purporting to represent the high standards that Common Cause purports to represent.

Those full-page ads aimed at particular Senators—not all, just particular Senators who have chosen to oppose S. 2—are done with a political intent in mind. Interestingly enough,

while more Senators—many of them, at least—who have opposed S. 2 have been subject to these ads, to my knowledge, at least so far, I have not.

Interesting. I have not. Virtually all of the other Senators who are in this class and up for election in 1988 have been subjected to those ads, and yet I, like others, for reasons I think are proper and appropriate, have opposed the current version of S. 2, although I would be delighted to join in appropriate campaign reform.

Why do you suppose that I have been spared the intensity of those full-page ads? Do you suppose it could be that I have chosen not to run for re-election and that they see no particular political value out of using their money in the State of Washington? Well, I would not make that kind of an assertion. Others might. But I certainly would ask some questions.

An organization like that devoted to the broad range of political good, and they have done an extraordinary amount of good over the years of their existence, suddenly turns to this kind of pure political advertising, and that is what I would call it, then the questions ought to be raised, especially to an organization that believes so much in openness: Who raised the funds? How much was spent on this campaign advertising? For that is what it is. Would they agree to a voluntary open disclosure of the particular funds used for those ads? Did contributors to the general support of Common Cause understand what their contributions might be used for? Were they aware of the partisan onslaught that their organization would embark upon?

They might respond to those kinds of questions, but I am not so sure they would.

No, it is time for us to look at the facts as they relate to not only S. 2, but the whole arena of campaign financing. Let me start with the very first, and that is the question of costs.

We have all sorts of statistics and trends and potential and future trends in terms of campaign costs, but almost all the ones I heard miss at least a good share of the point, because we could go back and look at the rising costs of almost anything in our society and make an extraordinary point out of it.

I remember vividly when I first became Governor. The general fund budget in the State of Washington at that time, as I remember it, barely exceeded a billion dollars. And the total budget of the State was something like 1.7. That was for a biennium, not for a year.

Whatever the figure was, it was somewhere in that neighborhood. As each year went by, during the 12 years I spent as Governor, the State's budget went up, and it went up faster than the cost of living went up during that period of time.

I winced regularly as editorialists and reporters and political opponents talked about the spending spree of the Governor of the State of Washington and how our budget was growing out of proportion and how each year there would be the story, we are now spending at a recordbreaking level.

I sometimes thought that reporters in their busier times, unable to think of a new story, would go back into the morgue from the year before on the same day and say, "Oh, yes, that was the story on the recordbreaking budget." And so a year later, inevitably, they could write the same story because, of course, the budget was larger than the year before, and most years it was even larger than that increase in the cost of living.

I did my best to try to point out the reason and the rationale for that increase. I do not think I ever succeeded very well because it is too easy for someone, on the one hand, to say recordbreaking budget and use the two total figures, this year versus last year, and as long as they stop there, they are absolutely right in what they say.

It takes a long time and a lot of detail, a lot of listening, and a lot of understanding to get, as Paul Harvey says, "what is behind the real story."

The real story is that in those years while the population went up 10 percent and the cost of living might have gone up a few percent, the number of schoolchildren was rising by 20 or 22 percent. We were going through the period of Lyndon Johnson's Great Society revolution where the amount of money spent at the Federal level and the new programs set out at the Federal level, in almost every case, required some partnership with State government.

We began in the mid-1950's an interstate highway program, and by the mid-1960's, it was really rolling. We were spending new money each year for that extraordinary investment in the future of the United States.

We could go through each of the separate areas of government and point out that it was the combination of the unique pressures of the particular citizens we were funding, coupled with the broad increase in the cost of living that made the total budget increases.

And year after year, we were able to show, when you took those things into account, that there was precious little and, in many years, nothing that really represented new money or loose money or money that went beyond just trying to keep up with the needs of the new people and the things that they required from the State government and the increased costs of providing that.

Let us turn that right back to campaigns and campaign financing. Sure there has been a big increase in the cost of campaigns. It has grown faster than the cost of living.

Let me return, if I might, first for one final statement on budgets because I am reminded that the President was himself a Governor, and I expect that during his term as Governor, each year the total budget rose and was larger than the year before. It would be a strange State where that was not the case.

I left office as Governor, of course, after 12 years as the big recordbreaker, the huge budget which represented the last one I submitted. It was something like $6 billion, as I remember. That pales into insignificance because now, 12 years later, the budget for the State of Washington is over $14 billion, and the huge spending practices of the past were forgotten. But they are still writing the same articles about the new Governor. The very same articles that we have a recordbreaking budget and it is bigger than the year before, and they do not go beyond that.

In campaign financing, it is often the same. We have had the rise in costs. Let me read a little from a report from a conference sponsored by the Citizen's Research Foundation. This was done a couple years ago in May of 1986. It was prepared for financing congressional campaigns, contributors, PAC's and parties. They talk about the increases in campaign financing.

They say at the beginning:

> For some observers, the almost 500 percent increase in spending from 1972 through 1984 has caused great concern. Those disturbed by this trend often describe campaign spending as out of control and feel that many talented individuals are being priced out of running for office. They maintain that the ever-larger sums of money required to mount credible campaigns, coupled with the system of strict contribution limits enacted in the Federal Election Campaign Act amendments of 1974 favor——

And let me repeat that: "They maintain," those who are concerned by this huge increase in spending, maintain that:

> ever-larger sums of money required to mount credible campaigns, coupled with the system of strict contribution limits enacted in the Federal Election Campaign Act amendments of 1974 favor wealthy candidates willing to help fund their own efforts or force candidates to turn to political action committees whose contributions may be used to advance the political action committees sponsor specific legislative interests.

They go on. "Others point out," they say, "that when spending figures from 1972 through 1984 are adjusted to account for inflation"—now, when you adjust it to account for inflation, spending has increased by 125 percent rather than 500 percent. Already, just by understanding that there is inflation in campaign spending, just like there is inflation in State government, just like there is inflation in family

budgets, just like there is inflation in a loaf of bread, we simply suffer, or some might even say benefit, from a steady inflationary spiral that, over the years, adds to the cost of anything.

So if we take the cost-price index and put that against this increase in spending, we have already reduced it from 500 percent down to 125 percent. That is three-quarters of that increase in spending. But I do not think you can stop there, because it is too easy to use a broad cost-index and not to focus on those particular elements that are the elements going into campaign spending.

Just as I found out when I was president of a college and had to deal with the various elements of the college, and they would come in for their budget presentations to me, we would always try to take into account inflation so that we could get a better sense of what it would really cost in next year's dollars to fund the same programs that we had the year before.

I shall never forget the first year that I was president of the college. The librarian came in and I tried to apply that same cost-price index to their budget. She said:

> Now, wait a minute. Wait a minute. You cannot legitimately apply that cost-price index to our particular function because a great share of our budget goes into the purchase of books and other reference material. The costs of those books and those reference materials are going up much faster than the general cost of living. If you only apply the inflation that is general, you are underestimating and you are underestimating substantially what we will be able to do next year.
>
> We cannot buy the same amount of material, reference material, periodicals, books, films, that we bought the year before. You will be steadily eroding away that base.

That was a pretty good lesson and we all ought to learn it; we all ought to understand it. When you apply that to campaign financing, I believe if an honest study were done—not that this was not an honest study but it did not go far enough—if a study really went far enough and examined what is happening in terms of campign spending when you relate it to the particular cost of campaigns, you would probably find that we are not buying a whole lot more today for our campaigns than we did a decade ago. Why? Well, I did a little looking into my own circumstance. I felt like Rip Van Winkle when I ran for the special election to the Senate in 1983. It had been 11 years since my previous election to public office. I ran three times for Governor and each time spent just about $500,000. Since those elections were 4 years apart, that meant that each successive election I was actually spending less money in what I could buy than the election before. But I figured that that was probably appropriate because I was an incumbent and for all the bad that that might bring you there is some good that goes along with it. That good is in total name familiarity—you do not have the expense and the responsibility of trying to get people to at least know who you are.

You do have an expense of trying to tell them that you really have been doing a good job rather than what they might otherwise have thought.

But suddenly, in an 11-year period, I have a special election for the U.S. Senate and find that within 60 days of the special election we raised and spent just over $2 million.

I am very proud of the fact—in fact, I will not run a campaign in any other way—that we had a balanced budget. I have told every one of my campaign committees from beginning to end that we will spend no more than we take in and if we get to the point where there is no money left we stop running.

Fortunately, at the end of each of those campaigns we have had a balanced budget and even a little left over.

I was still concerned. How in the world could we spend that much money? What happened in that 11 years of political sleep of this Rip Van Winkle?

So we went back and looked at what had happened. We found that the cost of television advertising in that period of time had gone up 400 percent. The cost of radio advertising had gone up more than 250 percent. The cost of newspaper advertising had gone up about 200 percent. These fundamental elements of political campaigning that take up a very large share of what we spend to get a message across had gone up on the average far faster than the cost-of-living index.

So if we go back to this study, when they say if you only measure it by the average cost-price index, that is three quarters of the reason for an increase in campaign spending.

I suspect that a more detailed look at the increased costs of the particular elements that go into campaign financing would find much of that remaining 125 percent being eliminated.

It may be that there is still something left, that campaigns have risen in cost, but it is simply wrong and if people understand and know these facts and continue to say that campaign costs are rising out of control and they are way beyond expectations. Then they are not telling people the whole truth.

I have had an opportunity from time to time to talk with members of the press in my State. I have gotten to the point now where every time I am asked about the increase in the cost of campaign spending, why in the world we are spending so much money now for campaigns compared with the past, I have said I have a beautiful answer, I think one of the finest limits we could place on campaign spending. They eagerly have their pencils out ready to write down this marvelous new idea.

I said, "If you who are representing the press would cut your costs of political advertising, put a lid on those, put a voluntary lid, like you would like us to put on campaign financing generally, then we might have something."

Better yet, we might do like the British do.

I was there during an election period a decade ago and found, to my surprise and interest, that in that country on television each night for several weeks before an election, they set aside half a hour free—free. One night for the Conservative Party; the next night for the Labor Party; the next night for the Liberal Party, in that way; and then back to the same rotation. Those parties can use that half hour in any way they choose to use it to espouse the cause of their party.

I am not sure we would end up doing the same things that they do, but I was not only interested in that particular way of campaigning and getting word across to their citizens, but I was deeply impressed by the relative civility and the positive nature of the content of those presentations.

It is relatively easy in a 30-second spot to really zing somebody and to engage in negative advertising, and to leave that subliminal or not so subliminal message that this opponent is bad on this particular issue. It is quite another thing to engage in a half hour of unmitigated negative muckraking of the opposition. That is self-defeating. I think people in political life are wise enough to understand that. The end results are campaign presentations which tend to be much more positive than the campaigns we end up with.

Well, I am under no illusions that free, independent, and private communications channels of this country are going to do any such thing and we probably should not ask them to.

The British have a different system with the government-run television operation, but it does allow us to understand a little better why campaign costs are rising. They are rising because there is competition for the use of the airwaves. And they claim that their costs are going up; that their profits are not so extraordinary. They just simply have to keep their noses above water and it is necessary, as a result, to increase that particular cost of campaign advertising.

Let us understand, then, really what is going on in terms of costs, and try, at least, not to be excessive in our arm waving and our finger pointing on the costs of political campaigns but instead understand why, what has caused the cost of campaigns to rise, at least what has been one of the major influences on the rise in cam-

paign costs, and then go from there. I think even when you go from there, I would agree that some redirection, some way of slowing down the intensity of a political campaign, is worthwhile.

Mr. President, I think there is another fact that we ought to understand more than we seem to in this set of arguments. I believe much of what we are doing is we are really taking wrong aim and we are hitting the wrong targets, if we are hitting any targets at all, and we are leaving out, or at least we are only getting at in an indirect way, in an awkward way, some of the real problems in our campaigns today.

I know that some of them are difficult to get at. We find that it is almost impossible to get at some without running across the first amendment to the Constitution, and it will probably take a constitutional amendment to ultimately get at some of the real evils, which I believe exist, and evils which will be even more potent if we pass campaign fund limitations of the type inherent in S. 2.

If we limit campaign funding, if we put a squeeze all the way around, and expect good and honest candidates to stay within those limitations, and we think that by putting limits on PAC's, which, incidentally, we do not do very well in this act, and limits on all sorts of other campaign funding, that we are going to resolve all of the problems; that we are going to keep that evil group out there, whoever they are, that evil group who are trying to influence the Senate and the House, we are going to get rid of all of that, what do you suppose all those evil people out there are going to do?

If, in truth, they are really evil and if they have some awful motives, are they just all going to suddenly blithely turn honest or disappear?

Come on. They are going to do precisely what we would expect them to do if, in fact, they are that evil. That is to say to themselves, "All right, how can we now influence compaigns? What will we do now because there are campaign limits here and there is the threat of public financing, and there are all of these other intricate webs to keep us from using this ungodly influence on a political campaign?"

Mr. President, do you know what they will do? In this Senator's view, they will engage in the broadest and the unhealthiest kind of campaigning which I see on the horizon. That is the independent expenditure.

We have seen what an independent expenditure can do. One individual—one individual—who, because he believed Chuck Percy was anti-Semitic, a grossly false charge but nonetheless that was his belief, was able to go into the State of Illinois—and he lived in California, not in Illinois—and was able to spend $1 million of his own money in that campaign, certainly not on behalf of a Democratic candidate, for he had nothing to do with the campaign of that candidate, he was zeroing in on an incumbent. He was going to do everythng he could to defeat Chuck Percy.

He bought billboards all over the State of Illinois, which, in blunt terms, said, in essence, "Chuck Percy is anti-Semitic."

In a very close election which may be decided by those last-minute ads and by that last-minute expenditure, Chuck Percy lost.

Have we anywhere in S. 2 corrected that? Of course not, because we have been advised time and time and time again that you really cannot keep someone from utilizing the first amendment to express their own opinion.

We have tried. We have gotten a lot of elements. I think everyone in this Chamber is trying to find a way to get at that particular problem. But I do not think we have found an effective way yet.

If we just put the limits on things over here and we think we have resolved the problem, we are going to be sadly mistaken. Instead of money given directly to a campaign and openly declared and at least out there for everyone to see, to understand, and to make up their own mind as to whether this campaign is too heavily funded or not heavily funded enough, or by the right people or the wrong people, we will see a rise in independent expenditures that will cause us once again to come back for another round of campaign finance reform.

We will have found one more time that in our effort to reform we put limits in one place and create an aberration that leads to an even greater evil somewhere else.

Mr. President, I think there is another element of campaign reform, or campaign misappropriation, if you will, that is perhaps more important than much of what we are dealing with. That is the extraordinary advantage we retain as incumbents through the use of the frank, the opportunity for those of us who are in office during the entire course of our term in office, through newsletters and response to constituents and whatever other clever way we come up with to communicate with those voters. And of course it is nice to do so, maybe even important to do so. But it is an advantage which is reserved for incumbents. And if you want to look at something that really has grown beyond all bounds, which really has exceeded the cost-of-living index, which really has exceeded even a particular cost index applied to the costs of mailing, and the costs of printing, and the costs of paper, then look at what we are doing for ourselves in the newsletters and polls and other nice little things we send out to our constituents.

There is not anyone here who does not understand that a pretty fair share of that plethora of mail is designed to carefully create in the minds of the recipient that this Senator or this Congressman is taking care of their needs, is responding swiftly and well to their concerns over legislation, is asking their opinion through a series of polls, most of which are polls designed carefully to bring the answers that the Members of Congress wants to have on a particular issue.

I have never seen so many questions that are so nonsensical in their makeup than the silly questions which are asked by Members of Congress of their constituents and designed to get the kind of results that support what they are already going to do anyhow or would like to do. They are not professionally put together, designed to really find out anything. They are designed for one purpose, and that is to convince the electorate that they are interested in their opinion. And then when the results come back in, they get one more shot to give them the results of the poll, which says by some huge margin on this issue you have spoken and, incidentally, I am out there fighting right alongside of you on the same side of that issue.

Well, of course, they are because that question has been designed in the first place to bring that answer.

That is a real scandal in campaigns, but we leave that totally aside, or almost totally aside. I think it is time to look very carefully at what is happening. I would love to see a complete laying out of the number of millions of pieces of mail that go out of this Congress each passing year and to see what those trends are and how rapidly they are rising.

It is especially prevalent in the other House, in the other body. But in S. 2 we are kind of going a little further, at least in another way. We are getting at this question of subsidy of mail to potential voters.

S. 2 and the sponsors of S. 2 really in essence want to compel stamp buyers now and taxpayers to subsidize the mail costs of Senate candidates. The way the sponsors propose to pay for this is a gimmick which really reveals some considerable cynicism, it seems to me.

If we are going to create savings by killing a subsidy, let us put the savings to the purpose of deficit reduction and not the perks of political office.

Let me just go into some detail on this particular question. In an effort to induce Senate candidates to sign up for the purported benefits of S. 2, candidates are offered or dangled out in front of them preferential mail rates.

Now, who is paying for this? Who is paying for this? The persons who actu-

ally pay for these subsidized rates are not volunteers who frequently check off a box on their tax form. Oh, no. Oh, no. The people who pay for this political perk are the taxpayers and the stamp buyers of the United States.

The committee modified version of S. 2 provides that:

All eligible candidates shall be entitled to mailing rates provided in section 3629 of title 39 of the United States Code.

Now, if we sent a copy of S. 2 to any citizen and asked the citizen to really examine it and if they really supported that bill, what in the world would they think of that particular clause. They would have absolutely no idea what it meant.

Well, what does it mean? Mr. President, when you turn to section 13 of the bill you find the mail subsidy which is included.

Participating Senate candidates will be entitled to send their campaign matter by first-class mail—

Understand this, by first-class mail—

for one-quarter the cost of regular first-class mail.

How many citizens would like a subsidy like that? All of us would. And second, they can send it by third-class mail for 2 cents per piece less than their special first-class rate.

Well, the first-class stamp now cost 22 cents and it is my understanding that it is likely to go up sometime soon, and if S. 2 passes participating candidates will be paying 5.5 cents for their first-class stamps and 3.5 cents for each third-class piece.

Now, if the cost of running the mail service today—and it is supposed to run at least at a balance, if not a small profit, no more overall subsidies to the mail service as in the past years, supposed to run as a business—well, if it cost 22 cents to send a first-class piece of mail, who subsidizes the 5.5 cents at which a political candidate will be able to send their mail? Well, who subsidizes it? The stamp buyers and the taxpayers, of course. Who else could? I doubt there is a Member in this body who has not heard the outcry when even the first whisper comes through that we might have a postal rate increase.

How many of those really believe that this calls for a plea for subsidized junk political mail? How many of those who are supporters of S. 2 are going to voluntarily put out to their constituents the thought that yes, I believe so much in this bill and the reform that it supplies that I am willing to allow all these candidates to send to your mail box and to your house the kind of political junk mail you already get too much of and they are only going to pay a quarter of the cost to send it to you first-class mail, and you are going to pick up the difference? Send a poll like that out to your constituents and see what kind of answer you get back. I would be surprised if there were less than 90 percent of the people who would send it back saying spare me the privilege of getting that kind of junk political mail at my expense.

But that is exactly what S. 2 does. Now, it purports to pay for its subsidized rates for participating Senate candidates by repealing another subsidy for other politicians. Under current law, third-class rates are extended to a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic Congressional Committee, and the National Republican Congressional Committee.

Now, this provision of the law is about 10 years old. It was a straightforward effort to promote political communication by subsidizing the postal costs of broad political parties and campaign committees. Now, a decade later the sponsors of S. 2 say well, that is not important any more. That is not important any more.

They may be right. In fact, I think they probably are right. But, Mr. President, if there are any savings to that, the savings should be put to reducing the extraordinarily large Federal deficit we have, not subsidizing Senate candidates. Eliminating the subsidy of political parties will not save billions of dollars. In fact, it is estimated to save only $12 million annually. But if the time for that subsidy has ended, if we really believe that that is no longer necessary, let us save the money, not squander it by just building another postal subsidy.

Consider what it has done. It is, of course, admirable that the sponsors of S. 2 sought to find offsetting savings to pay for the bill's costs. Look carefully, however, at what the sponsors did. To subsidize the third-class and the first-class postage costs of candidates for only the United States Senate, the sponsors of S. 2 proposed to repeal third-class subsidies for all the national committees of all political parties, State committees of all political parties, both House campaign committees, and both Senate campaign committees.

Well, I suppose if we are in the business of subsidizing, if we really want to do that, if anyone ought to be subsidized it seems to me it ought to be the national parties and the State parties and the broad House and Senate committees, those that at least in the overall are trying to present the cases for political parties and their philosophies and their platforms rather than dropping all of that just so Senate candidates, just so that we can be subsidized for our own campaign purposes. The idea is to drop everyone's subsidy but our own.

Mr. President, that really is cynical.

Mr. President, a few days ago, the Washington Times published an article entitled "Postal Service Quits Processing Mail on Sunday." That describes some of the changes taking place in the Postal Service. That article is pretty interesting. It said, among other things, that we have had Sunday service forever, since Ben Franklin, the first Postmaster General, who laid the foundation for a postal system in 1775.

It is a first in postal history. The elimination of Sunday service is the result of 430 million dollars' worth of cuts, congressionally mandated cuts, in operational spending. The Postal Service is also required to slash $815 million in capital spending.

We mandate that the Postal Service makes broad cuts. We say, "You have to find ways to make the Postal Service more efficient."

It is easy to say to anybody: "Don't cut any service. Don't do anything that would make people feel bad. Don't do anything that would bring one letter into our office. But cut a huge amount out of your budget."

When you are asked how, they say: "Oh, waste, graft, and corruption, and productivity increases." We will say that forever, never giving a clue as to where there is waste, where there is corruption, where productivity increase might be found.

We can always excuse our seemingly crazy system by saying, "Don't cut the service over here, but cut the budget over here." You can do that to a degree, but you cannot do it forever; and you should not say, all at essentially the same time: "Cut your budget here, don't cut service over here, and, by the way, while you are at it, give those of us in the Senate who are running for reelection a nice little subsidy." About the only thing we have not done is to try to tuck it into the folds and the hidden crevices of a continuing resolution, as we do everything else.

Two hundred years ago, we rose in revolt against the stamp tax laid on the colonies by the British. This, in at least a small way, is a political stamp tax of the 1980's and is just as onerous; and if citizens were given the opportunity to see and understand what we were trying to do, they would rise up in the very same fashion their colonial forefathers did.

Mr. President, let me talk for a moment about public financing itself. I understand that in the various iterations of S. 2 as time has gone on, we have moved slightly and steadily away from the original concepts of public financing, but we continue to use it as a club. It is the thing that is going to keep everybody in line; and if someone goes a penny over the limit—and others have talked about the many inadvertent ways that can happen—then an opponent suddenly is showered with thousands of dollars of taxpayers' money, because that is all you can

say public financing is; it is taxpayers' money.

Many have talked about the marvels of Presidential financing and what public financing has done for the Presidential campaigns. One of the most distinguished political writers in the United States—I think one of the most straightforward and perceptive—is David Broder of the Washington Post. In an article not long ago, he spoke out on this issue. He said that public campaign financing has helped to slow down—listen to this—helped to slow down grassroots campaigning. We have tended to shift away from the kind of grassroots campaigns of years past, which included as a major share of that grassroots campaigning the need to seek out and to gain the kind of political support, including money, that now is left to the taxpayer through the public funding. Even though it is a voluntary taxpayer funding currently at the Presidential election level, it is still, nonetheless, taxpayers' funding.

Frankly, I think there was something to be said in years past for the necessary efforts of people to seek out friends and acquaintances, to try in every way to engage the interests of people, to make sure that they fully engaged in the political process.

I was very proud that in the first campaign I ran, there were more than 13,000 separate contributors, most of them small. Those contributors were fulfilling one of the important functions of being a full citizen, because I do not think you can be a full citizen in this country unless you fully partake of the system of free government that our forefathers gave us just 200 years ago. An essential part of that system was the opportunity to freely choose our representatives—to vote, in other words; and for the first time in this history of the world, to create a government which was of the people. If there was any ownership of that government, it was not by kings and emperors or by dictatorial tyrants or czars. The ownership of this government was to be by the people; and, as Abraham Lincoln, of course, said less than a century later, not only by the people, but of the people and for the people. How can it be by the people unless people, themselves, are actively participating as shareholders in that enterprise?

The framework of politics is participation. I often refer back to the dictionary, read the definition of politics, just to make sure I have not forgotten it. The direct and most forthright meaning of politics in most dictionaries I have read is that politics is the art and science of government. Under the definition, to be a politician is to be a practitioner of the art and science of government.

Under that definition, I am proud to be a politician. I believe that I was a politician long before I ever ran for political office, and I will continue to be a politician long after I retire from political office, just as I believe every full citizen of this Nation ought to be a politician; because the only way we can fully carry out the heritage left to us by our forefathers is to be a shareholder, by being a politician, by fully participating in the art and science of government.

What is the most fundamental way to do that? Some would say it is to vote, and certainly that is as fundamental as any participation, but it is an incomplete participation.

It is terribly important that people become involved early on, that they be the participants in political campaigns, that they seek out, listen to, and understand better what those who are running for political office really stand for; and, better yet, go out and help find people they believe would represent them well and encourage them to run for political office, and provide the best encouragement possible by saying, "I'll help you in your quest for political office," So that active participation in the political campaigns of a candidate is a terribly important second element of being a full citizen.

A third one is for everyone to contribute, not only the time they contribute but also the money necessary to help make political campaigns as broadly financed as they can be. I think we would all agree that ultimately that is by far the best way to end whatever perceived evils there are in campaign funding. It is the best way possible to ensure that we have broad support from the many rather than narrow support from the few.

I think there are at least three other elements to that citizen's involvement in government which are really important if they are to be a full citizen and, in the best sense of the word, a full politician. Not only voting. It is participating in a political campaign, to not just wait until you get to the point where the primaries have passed or the candidates have chosen to step forward, and you are faced with only the last of the choices among those remaining.

If, in fact, there are evil special interests out there, they would be overwhelmed by the people voluntarily engaging in the political grassroots work and the political grassroots fundraising that is necessary to be a full citizen.

When I hear from one of the most distinguished observers of the American political scene that the public financing we have engaged in for the Presidential races has resulted in a slowdown of grassroots campaigning, that is a big warning sign. The alarm bells sort of go off all over the place, which would tell me we should look pretty carefully at what we want to do in our limitations, to try to ensure that those limitations do not act further to slow down grassroots campaigns.

After you have gone through the contribution of whatever money you can to a political campaign, engaged in the active work of helping a candidate during that campaign, going in and voting to help that candidate get into public office, the fourth element is to not then say, "We have done our job, and we can now go on to other pursuits and leave the responsibility in office to that person we have elected."

No, there is still one further thing we must do, and that is to keep track, to follow closely what our officeholders are doing. Let them know, in whatever way we can, how they are doing.

It would be nice on occasion if people would even write a letter saying, "You're doing a good job," rather than, "You're doing a bum job," or, "I want something." But it is the nature of all of us that we too seldom take pen in hand to write to anybody telling them they have done a good job. We are quick to take pen in hand to write to someone saying: "Hey, why are you doing this?" Or, "I need something." Those are the elements of being a full citizen.

Mr. President, as we go through this effort—and I think it is an important effort—to try to find ways to make campaign funding a better part of our total political system, let us be very careful that in doing so we do not inadvertently cut out or reduce or diminish the interests of people in participation.

That has happened far too often in the course of the last few years. Why is it that in every single election in this generation we have seen successively smaller percentages of our population engaged in voting? And if there are successively smaller percentages engaged in voting, then along with it there are almost certainly successively smaller percentages engaged in working for political candidates, engaged in giving money, even small amounts of money, and those who are interested enough in what is going on so that they will continue to be in touch with the political candidate after that person takes office.

Mr. President, I think there are some things that we can do and should do. I have mentioned some of them a little earlier—independent expenditures, which I believe are one of the largest current evils and could be one of the overwhelmingly biggest evils of the future. Personal wealth is another element which we will find difficult to get around. We are trying to do it in various ways in S. 2, I think probably inadequately, and I am not sure there is any way we can really get around the problems of personal wealth, except that we find, interestingly

enough, that candidates of extraordinary personal wealth who have put huge amounts of money into political campaigns in recent years have, more often than not, been defeated.

I feel the American people are smart enough to know. They are able enough to understand what is happening. If they perceive that a candidate is, no matter how honest, putting in an enormous amount of their own money in an attempt to overwhelm the opposition and to buy an election, the reaction is negative. That is why I would say that the most important thing we can do is try to be as honest, straightforward and open as we can be in getting people the knowledge of what is happening in terms of campaign financing. That is the current law.

But what happens? We require by our law that people follow carefully a long list of regulations and that they file within certain time limits the amounts of money that have come in and who they have come in from, and those are reported faithfully to the Federal Election Commission.

It is interesting that even with all of those regulations on full disclosure, that really does not keep people who, for whatever reason, choose to cheat, from finding ways around those regulations. Look through the list sometime of those who have contributed. See if you can distinguish what real interest is represented.

You, of course, have to assume that those are evil interests, those PAC interests. See, if you look down through the list of any candidate, if you can tell accurately just who they represent.

Even more so, look down through the lists of donations from individuals, large ones, maximum ones, and find out who they represent.

Frequently, they will represent one or another of the partners of a very large firm. Now, are they representing the law firm, or are they representing one of the clients of the law firm, or an interest of the law firm?

You can take all sorts of interests, and we find that if you really want to cheat, if you really want to mislead, it is impossible for us to write an act that will keep that kind of thing from happening.

So we look at the evils out here, and we try to draft legislation that will end the evils. We have no more chance of really doing that than by passing any other law and expecting that we will immediately end any criminal act in violation of that law.

We have sometimes even gone to the extent of thinking we can end what we perceive to be an evil by passing a constitutional amendment. And at one time, we thought that drinking and alcohol was evil, and so we passed a constitutional amendment. How high can you go in passing a law than passing a constitutional amendment, enshrining it in the Constitution of the United States saying, in essence, that it was illegal to buy, sell, transport, make alcoholic beverages? We sure did not keep the drunks from drinking, and we found out within a decade that we might as well repeal the constitutional amendment because it simply would not work.

I think we ought to spend our effort and our time on really examining what it is that would help to make our system work better. If there is any way to broaden the information, the full disclosure information to try to see how well we can move toward at least letting people understand who it is that is supporting candidates, to more clearly set forth the interest or the background interest of those who are providing the money, I think that would be a help.

But it is not much help if the only way citizens know or understand what is happening is to go down to the Federal Election Commission and ask to see a file and to ruffle through the file yourself.

No, the real problem is that we have full disclosure, but it stops in the vaults of the Federal Election Commission. The only thing people ever see are those selected bits and pieces which are chosen to be transmitted to us by the press, and what do they transmit? Do they transmit a whole comprehensive list of all of the contributions to a political candidate? Oh, no, not at all. It is much more fun, much more interesting, and it probably is the kind of thing that titillates the imagination of people who are reading, to get only the exotic or the large, or it is always fun for a reporter to find someone who has contributed to both candidates, running one against the other. That is always worth publicity. But that gives a incoherent view of what is really happening.

Mr. President, we have not even taken the first step on laws we already have to make sure they are working to produce what we thought they would produce, and here we are, again, trying to go further, to write more laws, to put in more regulations, to carve out more territory against those "evil influences" out there.

I think we just might do even more good if we found ways to ensure that there were clear and consistent and complete public explanations of the campaign financing that came to each candidate.

If we really think that people find excess campaign donations are bad, if we are trying to stop an evil on this side through S. 2, we are saying we are going to stop it by preventing campaign donations. We are unwilling to believe that if we disclose completely and can somehow get into the hands of the voter complete information on the kind of money and where it is coming from and the amounts and from what sources, especially what evil sources that money is coming from, we do not think that is enough. Why do we not think it is enough? Because we do not trust the good sense of the American people? Well, I think that is probably a pretty good interpretation of what we are doing right now.

Let us see if we cannot find a way to broaden that public knowledge. If there is a contribution the press collectively could make, it would be to see how comprehensive, completely and quickly for all candidates they could print the campaign donations, not just the partially, not just the interesting, not just the bizarre, but all so that everyone could see where the money is coming from.

And I have enough faith, Mr. President, in the American people to believe that they, given full information, will make good decisions. They do not need someone artificially making a decision for them as to what constitutes good or bad donations. They certainly would not ever understand what is being done to them by a bill or a law which, on the one hand, says you are going to put some stringent limitations on campaign financing, and you are going to take money from the taxpayers' pocketbook to make this thing work. But, on the other hand, there are a lot of soft contributions out here, not as easily measured, that we are not going to do anything about.

I think if the people knew the full story on all of that, they would really wonder what in the world we were doing and why we were doing it this way. I think they would say with complete honesty, or they would ask with complete honesty, the question: "If you are going to put limitations on, why don't you do a complete job of it? Why don't you put them on across the board? Why don't you put them on the soft as well as the hard campaign contributions? Why don't you really wrap a tight burden around those political candidates?"

No, we are not doing that. We are being selective in our coverage. I am not quite sure why. Maybe it is because we think we cannot get at some of those ways of campaign fundraising or the equivalent of campaign fundraising. Maybe it is because we think those who support S. 2, that it is to their particular advantage to leave that kind of limitation out because they may think that they get more than their opponents might get of that particular kind of help. And, of course, there are those who are opposed to S. 2 who have the very same thing in mind.

We have to be careful of this kind of limitation. We are OK on the other kind of limitation because we some-

how think we may get a benefit or the other guy may get a benefit, depending on which way the campaign financing bill is written.

I come back, Mr. President, to my belief that if we want to do something worthwhile we can get at independent campaign expenditures; we can get at better and broader and fuller disclosure; we can try to get at the problems of personal wealth.

I think we should be doing all of those things: Letting people know what is happening, but also spending more of our time and more of our effort and more of our leadership in trying to help people participate in the political system to make sure that every citizen possible is fully a politician, to make sure that every citizen possible is not only working on campaigns but contributing to campaigns and in telling the officeholders after the campaign is over what they think, instead of passing legislation that cuts back on grass roots campaigning, that cuts back on the kind of thing that we ought to be encouraging.

Let me turn, Mr. President, to a rather specialized element, one that I think might do some good in a campaign piece of legislation. It is not in S. 2 currently, although I have offered it as a separate bill. It is designed to try to get at the kind of problem I see too often in negative advertising.

It is one thing to talk about political campaign financing. Wherever we end up, whatever kind of limitations we put on, wherever we come out, there is going to be a certain amount of money set aside for campaign finances. Even under the limitations of S. 2 it is a large amount of money, so there is going to be a lot of opportunity for people to get their message across to the voters.

How do they get it across? They get it across in the ways that they believe are going to be most successfully in electing them to political office. They have a whole new group of professionals that we did not have a generation ago. We did not even have them when I first ran for office, or in the second or third term. It is a brandnew group that has now come along. They are the gurus of selling candidates.

Frankly, Mr. President, I think they have done more harm than good to the American political scene. They have crassly taken candidates and, in fact, told some candidates, "Look, we can take you and mold you and create you and sell you and, in fact, if we do it just right you do not even have to make much, if anything, in the way of personal appearance. We will just put on the tube, carefully done in the right ways," and like a whole bunch of Max Headrooms we end up as nonpersons.

We are all two dimensional, flat on a television tube, instead of real people out there campaigning and talking and running campaigns in the way we used to. These gurus, who now take a lot of the money, have found that one of the best ways to ensure your candidate's success is to find that negative political advertising that will really skewer your opponent and convince the voter not that you are the best person for political office, but that the other guy is not good enough for political office.

It seems to me, Mr. President, that that is one of the most evil things that has happened to our political scene as time has gone on.

It is not new. We have had negative political advertising in the whole 200 years of American political history. But negative political advertising in past years was at least mixed with the personal appearances of candidates, their speeches in front of hundreds, sometimes thousands, of people who would turn out to listen and to hear from a candidate as to where they stood and what they believed. It was harder for them than it is now. They had to get in their buggies or ride their horses and go distances to arrive at where the candidate was going to be. It took time and effort and they took that time and effort and they learned, and they ended up knowing a whole lot more about what that candidate stood for than most citizens know about candidates today in this time of instantaneous communication.

It should not be that way, but it is, and it is because these gurus of political wisdom have told us that negative advertising is the way to political success.

Mr. President, I do not quite know how to stop that, but I have an idea that I hope might be added to whatever kind of bill might ultimately emerge from this Congress, and I hope a bill does emerge from this Congress. It would do just this: It would revise the Federal Communications System interpretation of "use."

We now have a proposal where a candidate is entitled to the lowest unit charge for advertising, and no censorship protection, by appearing in a media spot.

Well, that is a pretty good idea. We say if the candidate appears, then he gets the lowest rate. There is some real benefit attached to that. I would be willing to bet—I do not know it, but I would be willing to bet—that the sponsors of that law when it was proposed in the Congress hoped that it would mean that candidates themselves would appear on media spots. It was a way to encourage candidates to speak for themselves.

Well, how do they do it? That law had a hole big enough to drive a Mack truck through. I would rather say a Kenworth truck, because that is a product of the State of Washington and the highest quality of truck. But, nonetheless, they do it by appearing for a fleeting instant in a television ad, sometimes in a fleeting instant not even recognizable as the candidate but as the participant in some kind of message that the advertisers are putting out, or on a radio spot right at the end where it says, "This spot paid for by the "XX Committee." That is carefully read by the candidate. Nothing else in the spot is read by the candidate. The candidate is not involved at all in the rest of the message.

Mr. President, I am suggesting that the bill I have introduced would redefine the use requirements. It would mandate that the FCC define "substantial appearance" so that the candidate would be required to be identified or identifiable for 100 percent of the media spot.

Some may say, "Well, what good is that? What does that really do?"

Well, I think it does a lot. It does several things.

In the first place, people would get an idea of who their candidate was, what that candidate looked like, how that candidate sounded. It would be a modern-day equivalent of that citizen getting on the horse and riding into town, or whatever distance was necessary, to listen to and to view and to look in the eye of a political candidate.

It was important then and people thought it was important. It is important today. If they will not get out of the house and get into the car and go visit a political forum to see and listen and talk to and question a candidate, at the very least, as they sit on their couch in front of the television set, they ought to have the opportunity to listen to the candidate speak to them and not some fancy political ad designed in 30 seconds to give a negative view of an opponent.

The other thing I think would happen, Mr. President, is something perhaps even more important.

I think if you required a candidate to be in the ad 100 percent of the time, if every 30-second or 60-second spot that that candidate put forward required the candidate to look the voters right in the eye and tell his or her message, there would be a lot less negative campaigning.

It is one thing to have a fancy, artificial kind of whirling weathervane. That is a popular one now, where the weathervane flips one way and then the other to indicate that your opponent is wishy-washy or changes policy. There is not an officeholder among us who cannot be subject to that kind of political ad, unfairly most of the time, vastly unfairly some of the time. But it is a popular ad and it seems to work.

I doubt very much that it would work half as well if a candidate faced the people and looked them in the eye night after night in political ads and did nothing but talk about how wishy-washy his opponent was. That candidate, in my view, most of the time

would lose an election. You cannot personally look out at your audience and constantly negatively attack your opponent and hope to win.

So I think, Mr. President, in that small way we might do more than a lot of the other things we are talking about doing because when you get right down to it when we talk about campaign financing all we are talking about is the means to get a message across.

We are not doing a darn thing about the message itself. It is the message itself, I think, that more than anything else is destroying the American voter's interest in the political process.

How can it be any other way, when all that the voter sees day after day after day for every campaign, for every level of office, is a negative, negative, negative political campaign?

That is why, Mr. President, as I said at the beginning of these remarks some minutes ago, we are shooting at the wrong target and we are hitting the wrong target. I think we are missing some of the facts as they truly exist in the increased costs of campaigns and why they are increasing and how much in real dollars they are increasing.

We are not touching at all the message, and we probably cannot, by law. We can only do that through our own leadership, our own leadership which I think ought to be utilized to fire a whole bunch of these gurus, to start campaigning more personally and more positively to change the face and the map of American politics. We would not worry so much if that happened about political campaign financing and campaign reform.

If the message were a positive one, if we were spending our time speaking out on issues, and if the message that we were buying with political donations was a message that helped educate people on issues, put forth positively our own stand on issues, helped us engage opponents in a legitimate debate where we differ on issues, then we really would have done something.

But if all we do is tinker around the margins with campaign financing, try to put limits here, almost certainly by instituting almost every new limit we create a new brand of cheater and we also give ourselves another place where perceived excesses will erupt and lead us to yet one more round of campaign financing.

I wonder sometimes, Mr. President, where we will be a decade from now on the next round, with another set of evils or ills, not having done anything about correcting the message but merely aiming at the means. I fear for the kind of political system we will have at that time.

So I hope that we can all join, and I am sure we could in a bipartisan way if we only knew the means and only knew the method where we could join in building a more positive message to send to people, a broader message, a message that would encourage rather than discourage grassroots campaigning, a message that somehow would give to every citizen the added impetus to be a politician, to fully engage in the art and science of government, to not only vote but to work on political campaigns, to help tell an officeholder what to do after they are elected and in a very real sense to be a full participant by contributing to political campaigns. It is not evil to do so. This Senator for one does not believe that there are an extraordinary number of evil influences in political campaigns. We have got to do more to change the message than change the means. Thank you, Mr. President.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Connecticut.

Mr. WEICKER. Bon journo. The distinguished Senator from Washington concluded his eloquent remarks exactly at the point I would like to start because the first thing I am going to do is to read an article that was published in 1977, almost a decade ago; it was published in U.S. News and World Report. "Pro and Con—Use Tax Dollars To Elect Congress?"

Congressman MO UDALL of Arizona went ahead and advocated: "YES—we have to respond to evolving conditions," and an interview with Senator LOWELL WEICKER, JR., Republican of Connecticut, "No—the whole idea of public financing stinks!" So I am going to pick right up as to what my comments were on amendments to the original act which we are trying to reform again today, and as the Senator from Washington says if we got through the reform, which I do not think is going to happen, believe me, 10 years from now we would be reforming the reform of the reform.

Q. Senator Weicker, why are you against using public funds to finance congressional campaigns?

A. I think the whole idea of public financing stinks. What you'd be doing is subsidizing mediocrity. You'd be taking away from the people of this country one of the checks which they have on their Government: specifically, the power to politically utilize their resources.

What particularly nettles me is that I've heard federal financing of campaigns referred to as a Watergate reform. This is absolutely wrong. The Senate Watergate Committee explicitly opposed public financing in its final report. I can only say that if there is to be "Watergate reform" of our election process, more power should be put in the hands of the people—not less.

Q. Your view is that public financing increases the Government's power—

A. It is a raid on taxpayers' money for the support of failing politicians. Politicians should get out and earn their votes, earn support. A time of declining faith in politicians is no time to reward them financially. In essence, you are eliminating competition in our election process; you're saying that a warm body is enough to get money.

I see the distinguished Senator from Maine eagerly receiving these remarks along with his colleague, Senator HARKIN. And I am delighted that two such good friends should be on the floor during the course of these remarks. They are, I can assure you, more than warm bodies. These are two of the finest Senators that enter this body, and I assure you that whatever financial rewards come to them at election time, are well deserved.

Mr. MITCHELL. Will the Senator yield?

Mr. WEICKER. I yield the distinguished Senator.

Mr. MITCHELL. One of us was going to leave now, but given those remarks we are going to be reduced to staying.

Mr. WEICKER. These remarks only come at 3 o'clock in the morning, let me assure the Senator.

Mr. MITCHELL. I want the Senator to know that I eagerly await the Senator's remarks.

Mr. WEICKER. I thank the distinguished Senator from Maine.

Q. But wouldn't the proposals for congressional-campaign subsidies require a candidate to demonstrate he has support before he can qualify for public money?

A. I agree, but the fact is the requirements aren't that stiff. What is the argument for giving this power to the Federal Government? I don't understand it in light of the track record of the Federal Government, which has been one of chicanery and corruption.

The real story of Watergate was the story of the Federal Government gone haywire—of federal institutions being used politically. Now, what are you doing with a federal-financing concept? What you're doing is to say, "O.K., we're going to punish those who had nothing to do with the situation—the people—and we're going ahead and putting additional power in the hands of that institution which was involved in the wrongdoing.

Look at the two major parties: The people have less and less faith in them. That's a statistical fact. Yet the representatives of the major parties are trying to make sure that, regardless of declining support in numbers, they're going to have the money to continue operating.

Q. The backers of public subsidies for congressional races argue that private financing leaves open too many opportunities for wealthy special interests to buy influence—

A. Sure, there have been attempts to buy elections. We saw that in 1972, when massive amounts of money were poured into Nixon's campaign by people trying to buy an Administration. Attempts have been made in congressional races.

But how do you deal with it?

The answer is you give the electorate the facts, and let the electorate decide whether or not an election is being bought. The answer is disclosure.

Another answer is limiting the amounts of individual contributions and group contributions. This is a good reform. It seems to me that when you've limited the amount of contributions to $1,000 from an individual and $5,000 from a group, as we have, this

pretty well stops the "buy" aspects of private financing.

Q. The Supreme Court has ruled that spending limits can be placed on candidates only if they accept them voluntarily as a condition for getting public subsidies. Isn't this a good argument in itself for extending subsidies to congressional campaigns?

A. This goes back to the question of buying elections. Disclosure is the answer, and we're getting there. In 1945, you probably could have spent 10 million dollars on your campaign and nobody would have known it. Today, everybody's going to know. The public can decide whether an election is being bought.

The issue of buying elections has come up in several races of recent vintage. In some, the candidates were tossed out; in others, though the spending obviously assisted in a victory, the public was not solely concerned with the spending issue. What I'm saying is that as long as the facts are on the table, I'm not worried.

Q. Does the high cost of campaigns concern you?

A. Yes, it does. But what I propose is shortened campaigns. It is the length of campaigns that drives up the cost. There is no reason why the primary and general-election campaign can't be held to 5 months at most, instead of 10 to 12 months for a House race, or a year and a half to 2 years for a Senate race, as it often does now. I'm going to offer this concept as a substitute for public financing when the issue comes up in the Senate.

Q. Just how could you shorten campaigns? What would you prohibit?

A. I would not permit any raising or expenditure of funds except during that five-month period for campaigning. Before that, candidates could speak all they wanted to, but no money could be raised or spent.

Q. Wouldn't such limits favor the incumbent, who usually is better known than his challenger?

A. Look, there is nothing I can devise that isn't going to favor the incumbent to some degree—just absolutely nothing. You've got to legislate on the norm and not the odd-ball exception.

Q. Suppose you see that Congress isn't going to accept your proposal to shorten campaigns and is going ahead with an extension of public financing. Are you going to try to alter the legislation in some other way?

A. No. I can't accept any part of public financing. I intend to fight tooth and nail to block passage of this political meadow muffin.

Again, that was an interview with U.S. News & World Report in 1977. So as my colleagues can see, even then I was opposed to the legislation which brings us here this morning, the feeling that that legislation was entirely inadequate for the task, which indeed it has proven to be.

I mentioned disclosure in the article, and I really think that disclosure and the concept of shortened campaigns is the answer to our problem. But the concept of disclosure also came up in the Senate Ethics Act which we passed on this floor and again which I opposed and again to which I offered a substitute, amendment, one calling for full disclosure. The issues are very, very similar.

Let the constituency, not an ethics committee which we now have, not a Federal Elections Commission, which associates with the Campaign Financing Act, let the constituency decide what is permissible or not; what is acceptable in Maine might be considerably different than what is acceptable in Connecticut, considerably different than what is acceptable in California or Oregon.

Let the constituency within each State decide what it is that they will accept in terms of both the amounts and the sources when it comes to campaign financing.

I wrote an article on the matter of disclosure for the New York Times. Again this was in 1977. I will now read from that article which was called Full-Full-Disclosure by LOWELL P. WEICKER, Jr.:

Seventy-four years ago, the British philosopher George Edward Moore wrote of the "difficulties and disagreements" that arise over the subject of ethics. The problems, he wrote, "are mainly due to a very simple cause: namely, the attempt to answer questions without first discovering precisely what question it is which you desire to answer."

The United States Senate, now considering a new code of ethics, provides living proof of Moore's thesis. Members know full well that they must answer the public cry for stringent rules of conduct; the issue can no longer be ignored. Yet, they are rushing to meet the challenge without a clear perception of what the so-called reforms will remedy.

The Senate ethics plan under consideration is an amalgam of arbitrary restrictions and incomplete regulations whose only claim to the title "reform" stems from its public relations value.

Very much akin to what we are doing here and what we did in 1977.

These two came up simultaneously in 1977 vis-a-vis campaign financing.

The proposal proclaims tough, new financial-disclosure provisions for senators and top Senate aides. But it stops well short of revealing all financial interests. No tax returns need be revealed. No specific amounts of assets or liabilities need be listed.

When the Senate and House approved the $12,900 pay raise (recommended incidentally not by the Senate and House but by an independent commission), lawmakers drew criticism. Their response was to promise "reform" and to limit the amount of a senator's outside earned income to 15 percent of his new salary.

Ignoring the fact that one cent paid a public servant demands proper conduct in return, the new reform bill implies that a $57,500-a-year senator requires improved ethics over the $44,600-a-year model. There is no magic to the 15 percent ceiling. Even the bill's sponsors admit that it is pulled from thin air.

But some type of income limit is vital to the integrity of the institution, they argue. Senators making more than $8,625 a year giving speeches, writing books or maintaining an outside business interest might appear to be in the pocket of special interest groups or shortchanging the American people—

You see the very argument that is being presented out here today—

by failing to devote enough time to their Senate work.

No consideration is given to those senators whose profits from stocks, bonds or family wealth far exceed the earned income of their less-wealthy colleagues. In essence, this "reform" rules out outside income for less well-to-do senators while permitting rich lawmakers to get richer.

Would not the potential for legislative conflict of interest be greater for a senator holding 1,000 shares of stock in a major corporation than for another lawmaker who earns $1,000 delivering a speech to an educational institution?

Instead of scurrying for public favor through artificial and illogical restraints on officeholders, the Senate should consider the effectiveness, not the cosmetics, of its ethical standards.

This is the issue here.

If the question of ethics hinges on a faltering public trust in its elected officials, there is one best way to restore confidence: Let the American people police their own politics.

Let the American people police their own politics.

Instead of senators' judging the propriety of their fellow senators, give the public all the facts and let the voters decide what is a conflict and what is proper.

Then I go on in the rest of the article to advocate a system of full disclosure.

For those who are seeking avenues of accountability in this matter of the financing of Federal election campaigns, they do not have to look any further than to the people of this Nation.

In March 1977, I wrote an article in the Congressional Digest on a question of Federal financing of congressional election campaigns—this is 11 years ago—"Should Federal Subsidies Be Provided for Congressional Election Campaigns?" I wrote the "con" argument.

From the debate of March 17, 1976, on the floor of the U.S. Senate during consideration of S. 3065, the Federal Election Campaign Act Amendments of 1976. Sen. Weicker's remarks center on an amendment to the pending bill which he had introduced which would have had the effect of repealing provisions of the FEA relative to Federal funding of presidential campaigns.

From the start, I have believed that public financing of national election campaigns—whether presidential or congressional—would be a mistake. I have long believed that such public financing, rather than being a reform, is a dangerous step toward decontrol of the Federal Government, and decontrol in the sense of the control exercised over us by the sovereign people of the United States.

For several years, efforts have been mounted in the Congress to broaden the present provisions, under which the campaigns of presidential candidates are financed from tax revenues, to include funding for the campaign expenses of candidates for the Senate and House of Representatives. As my colleagues know, I have expressed grave reservations about the action

of Congress which authorized Federal funding of the presidential campaigns, and have expressed my undisguised concern over damage to basic and vital principles of our American system which would result—and, in my view, have resulted—from such a method of financing. I feel, if anything, even more strongly about proposals to devise a similar method of financing candidates for congressional office.

I understand the motivation behind public financing. It was deemed a reform measure to reduce the role of money in the American political process, and to diminish the amount of money spent in the course of an election. But I suggest that, in effect, all we did when we enacted public financing was to accept the problem and merely find a way to finance it.

What am I talking about here? I am specifically saying that the reason why so much money is expended is the length of our political campaigns.

Why then did we not attack the basic problem, reduce the time? Because, indeed, if we had done that, we would have reduced the funds to be expended. Instead, we accept the inordinately long length of campaign time.

Believe me, unless the funds are coming from some source other than individuals, it does demand a sort of financing scheme.

With the best intentions, the Congress enacted campaign reform legislation calling for direct Federal subsidies to Presidential candidates. However, that accommodates rather than eliminates the problem. The problem is long translating into big money. Public financing only pays the blackmail imposed by that sin.

Matching funds have kept floundering Presidential campaigns afloat beyond their time.

I said that in 1977, and it has happened several times since then.

They have allowed one issue candidates and those with only a marginal chance of success to overspend their budgets, knowing a taxpayer bonanza waited in the wings. Allowing the Federal Government to bankroll everybody who wants to be President is a subsidy that can only sap the vitality of a free society whose excellence depends on the survival of the fittest ideas.

One measure of a candidate is his or her ability to generate contributions for public office. Candidates should sell their ideas to win, not just be a warm body and rely on the Federal dole. Worse, public financing gives Congress control of the campaign war chests of Presidential challengers. The Campaign Reform Act was drafted in 1974, with the Congress and White House controlled by different parties. Under these circumstances, each candidate of a major political party would receive $20 million in a general election. Were the Nation to elect a President with a large majority of his own party in the Congress, who can say that the formula for allocating funds would remain the same? And what of enforcement? Once we hand the Congress the political purse strings, the people will no longer have the final say. Instead, politicians will be monitoring politicians. And that is not a healthy situation.

The dangers of public financing were recognized by the majority of the Watergate Committee when they opposed enactment of that decision. In a brief filed by the appellants for the Supreme Court, in the case James L. Buckley against Francis R. Valeo, these dangers were clearly described:

"Grave dangers to the future of democratic government result from direct payments to parties and candidates. Democracy depends largely on free political competition and the freedom to form, join or leave political organizations. Once a party becomes officially sponsored by the government or government begins to determine the allocation of political resources, that freedom is endangered."

The experience to date with the tax checkoff to finance Presidential campaign funds indicates little interest and enthusiasm among the people. Only 10 percent of the taxpayers chose to direct the $1 of their taxes owed for 1972 to the campaign fund. The total amount designated for 1972 was $12.9 million. For the taxable year 1973, approximately 14 per cent of the taxpayers exercised this option, accounting for $17.3 million. Approximately 20 per cent of the taxpayers submitting returns for 1974 funneled moneys into the Presidential campaign fund. The total amount for that year was $31.9 million. As of February 25, 1976, approximately $6.1 million has been accumulated. The total funds received since 1971 is approximately $68 million.

With 80 per cent of the American people saying no to checkoffs, it is time the Congress reexamined the policy of paying checks out to Presidential candidates.

I understand that there are those who would want to extend the Federal financing principle to senatorial and congressional campaigns. Then how long will it be before nondesignated general funds are used when indeed the pot becomes too small for the numbers desiring to run or participate?

I confess that with today's myriad of unresolved needs, I find financing political campaigns rather far down on my priority list. If we have become so devoid of initiative, ideas, and courage that the American people are walking away from today's politicians, then it is time to get out, rather than to monetarily assure a continued presence. If we want to reduce the role of money in politics, reduce the time of politicking. In so doing we will preserve the rights of Americans, while getting better men and women to serve.

I have heard comment that in fact these are not general funds, that these are designated by various taxpayers.

Well, now, let us examine that just for a minute. I do not have the right, neither does any American taxpayer, to designate that a certain amount of my tax shall go to HUD, or that a certain amount of my tax shall go to Defense. So, in effect, we are giving a special privilege here. It is money that does come out of the general fund. It is money not going into the general fund but, rather, into the business of politics and financing of campaigns.

I think, and this is all the amendment is stating, that if we are going to take this step, both in the sense of its effectiveness in reducing the ills of our political system and in the sense of what it does to the basic rights of Americans, this is something we should tread into with a light step. It makes eminent sense to examine our experience, as we will the experience of the election of 1976, before we impose such a system forever on the American people. It would be very hypocritical, indeed, for this Congress to demand a zero budget-type base for all the other agencies and programs of Government if we are not willing to do it to ourselves.

I hope the American people understand what is at issue here. I have always thoroughly objected to this public financing being labeled as Watergate reform. It was no such thing. It has no relationship to the facts of Executive abuse, no relationship whatsoever. Indeed, what we have done with this type of reform is to put more power into the hands of the Executive; more power into the hands of the Congress.

One thing the American people still have to themselves is their vote, their support, their contributions. This is their one check on the Government, and it is one that I feel they should preserve. But certainly, since the Congress, the representatives of the people, deemed it advisable to give a new system a chance, let us try it out, but then let us put an affirmative responsibility on our shoulders to justify its continued existence.

I have made the statement that I thought in this country what we should do is have the candidates file the first Tuesday in September, let there be direct primaries the first Tuesday in October, and then let the general election take place the first Tuesday in November, letting the whole process consume 60 days. Believe me, then we will reduce the role of money in campaigns and we will also, I think, achieve a very affirmative result. I think most peoples' attention span is quite good, if we are talking 60 days. I think in two years it sort of wavers.

There is no question in my mind that in this way ideas will be at a premium and they will count. By the same token, obviously, the funds expended will nosedive. But what we in effect have done is just to go ahead and accept a bad situation and figure out not how we are going to pay for it, but how the American taxpayers are going to pay for it.

There you have all the remarks made in the year 1977, and here we are right back at it, moving, just as I predicted then, away from public financing of just Presidential campaigns to include those for Congress, for the House and for the Senate. I might add that I will stick by my resolution of shortening campaigns.

Let time be the disciplining factor. Do not discipline the freedom that the American people have of expressing themselves, whether by virtue of their resources or their energies.

Mr. President, yesterday and again in the articles which I have read today, I referred to the recommendations of the Watergate Committee. I referred to them because they have a direct application to what we are considering on the floor of the Senate this morning. It does little good to write the pages of history if, in a short period of time, we are to ignore our own writing.

Watergate was not a media event. It was not a miniseries devised for the entertainment of the American people. It happened. The facts were ascertained to the minutest detail. Unlike some of the matters which confront us today, where we do not know all the answers, we got all the information. We knew exactly what transpired. The Nation was shocked.

I might add that, unlike the House of Representatives, the Senate committee was authorized not in the sense

of an impeachment process but, rather, to look at the election, to look at that election that had taken place, ascertain the facts and then given recommendations. What was the name of the committee? The name of the committee was the Select Committee on Presidential Campaign Activities. That was the name of the committee. Now listen to the full title: The Select Committee on Presidential Campaign Activities, the U.S. Senate, pursuant to Senate Resolution 60, February 7, 1973, a resolution to establish a select committee of the Senate to investigate and study illegal or improper campaign activities in the Presidential election of 1972.

This is completely different from what it is the House accomplished. It was the actual impeachment process itself, or at least a portion of that process, the process never having been completed in the sense of coming to the U.S. Senate.

So this body authorized this committee to find out what went wrong and to make recommendations. I do not think there is any debate over the fact that the Senate, the House, the Nation, was aghast at what it was this committee found out, and, on the basis of what it found out, it made its recommendations. One of those recommendations went to the heart of what it is that comes before us at issue now.

Recommendation 7, and I now quote:

> The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

Now, can you have anything more direct to the point at hand than that?

> The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.
>
> The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriation solution. Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."
>
> The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment.
>
> Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.
>
> The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.
>
> What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

We can all speculate as to what might transpire from our legislation here on the floor of the Senate, but this conclusion, which I have just read, is no speculation. It was based on a track record of abuse by governmental agencies, not just by one man, Richard Nixon, but by governmental agencies. And here we are right back in the same old corner saying let us give more power to these agencies or let us create another agency and give new powers to it. I think that a little bit foolish.

The other track record you have is the track record now, as far as Presidential campaigns are concerned. Again, that track record is nothing of which to be proud: People overspending their limits, extending campaigns, as I suggested might happen, just to receive Federal funds.

What is the impetus behind new reforms? As I indicated earlier, if you want new reform, let us have election campaign consume 60 days. Now there is something new. Sixty days, primary process, election—60 days instead of the year to 2 years to 3 years, in some instances, 4 years that is involved in the present process.

What is it that we are tinkering with in S. 2? I suspect that some of it has to do with PAC's, and I do not quite understand that. What is the actual problem with the PAC's here? What are PAC's? They are not just something out there in the air by themselves. It is the result of a joint effort of many people to give some clout to their contribution. What is wrong with that? I know it is fashionable, on both sides of the aisle here, to say PAC's are awful. What is a PAC?

It is people, plural, getting together to have their voices heard as 1 rather than as 10 or 100 or 1,000. And the PAC's come from across the spectrum of activity in this Nation. There are environmental PAC's, educational PAC's, scientific PAC's, in addition to those of labor, working men and women, business, every conceivable concept where people want to have their voice heard, where they find it is far easier to have their voice heard when they speak as one rather than as a myriad of individuals.

So I do not even go along with the badmouthing that associates with the word PAC.

But be that as it may, I get back to the recommendations of the Watergate Committee, why it recommended against public financing and, in that regard, will now recite the individual views which I expressed as a part of that report. Those individual views are merely a recitation of the facts of government abuse as to why we said the government should not have more power. I do not think anything can cite my case more strongly than what actually happened in America in the early 1970's.

If anybody wants a copy of this report of July 1974, my office will be glad to supply it.

In the early 1970's, several independent events took place in the United States of America. On the surface they appeared to lack a common bond.

In June 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to disregard a victim's cry for help. Over the next several years, this mood took the form of countless incidents of "looking the other way" when men and women were assaulted and murdered in full view of entire neighborhoods.

On May 4, 1970, at Kent State University in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, killing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State University in Mississippi, police who had been called in to protect firemen from violence, opened up a 28-second fusillade into and around a dormitory killing Phillip Gibbs and James Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party which would renominate that President.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the Bill of Rights. Seventy-five percent refused, many saying it was "Communist propaganda."

In February 1972, it was revealed that International Telephone & Telegraph had allegedly offered a campaign contribution of $400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Reelect the President were arrested inside the headquarters of the Democratic National Committee with bugging equipment and large sums of cash.

In December 1972, having failed to get congressional approval for a reor-

ganization of the Cabinet, the administration moved autonomously to establish three or four "super Secretaries" and to place various Executive Office employees in key sub-Cabinet posts. The obvious goal was to create a White House-directed network of decisionmaking and reporting quite different from the formal Cabinet structure which remained subject to congressional scrutiny.

In February 1973, the White House held a Peace-with-Honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable men and women.

Some of these incidents were matters of life and death and were well publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained.

A constitutional stillness was over the land.

The next chapter was entitled, "The Uproar."

That American decency, idealism, honesty and reverence for the Constitution that some thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still shout treason when questions are asked.

A few still espouse the end as justifying the means.

A few still goggle at an American title rather than the title of American.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround?

The truth!

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

The next chapter is "Constitutional Democracy in the Era of Watergate."

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in Government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations, one of which, I might add, I just read to this body here, being against Federal financing of elections.

To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third, as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

A. THE EXECUTIVE

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. The resolution of that issue was one of the most significant actions taken.[1]

Most state constitutions prior to that time had weak executives and strong legislatures.[2] The decision to create a President, as opposed to plural administrators,[3] was a reluctant recognition of the advantages of a strong executive.

Nevertheless, the Convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties did the Convention agree to the concept of a strong President.[4]

This bit of history, indicating that the delineation of the President's office and powers preceded the creation of his position in the Constitutional scheme, is quite important. It demonstrates that executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of Article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at Article II.

The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, Article II contains two points of significance.[5] First, its opening words state: "The executive Power shall be vested in a President of the United States of America.[6] This grant of executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the presidential office and activities.[7]

However, the initial broad authority is offset by a second significant factor, the enumeration of executive powers later in Article II.[8] These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed.

It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as a practical matter, to exercise those additional powers that fall naturally within his range of activities.[9]

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sec-

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[1] Congressional Research Service, Library of Congress, "The Constitution of The United States of America" (1973), p. 429. Background on the Convention from C. Thach, "The Creation of the Presidency, 1775-1789" (Baltimore: 1923).

[2] As a result of experience with the royal governors, not only did most states have weak executives, but the Articles of Confederation (which was the agreement by which the national government was functioning at the time of the Constitutional Convention) vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was the basis of discussion, offered a weak executive, with only power to "execute the national laws" and to "enjoy the Executive rights vested in Congress." Id., ch. 4; Congressional Research Service, p. 430.

[3] It was not until the closing days of the Convention that there was any assurance the executive would not be tied to the legislature, devoid of power, or headed by plural administrators. Although the discussion about the executive opened on June 1, 1787, as late as September 7, 1787, eight days before the final Constitution was ordered printed, the Convention voted down a proposal for an executive council that would participate in the exercise of all the executive's duties. M. Farland, "The Records of the Federal Convention of 1787" (New Haven: 1937), 21 and 542.

[4] The eventual basis of Article II was the New York Constitution. On June 1, 1787, James Wilson moved that the executive should be one person. A vote on the Wilson motion was put off until the other attributes of the office had been decided. The decision resulted largely from experience with the Articles of Confederation "that harm was to be feared as much from an unfettered legislature as from an uncurbed executive and that many advantages of a reasonable strong executive could not be conferred on the legislative body." Congressional Research Service, p. 430.

[5] According to Alexander Hamilton, "The second Article of the Constitution of the United States, section first, establishes this general proposition, that 'the Executive Power shall be vested in a President of the United States of America.' That same article in a succeeding section, proceeds to delineate particular cases of executive power." 32 "Writings of George Washington," J. Fitzpatrick ed. (Washington: 1939) 430; 7 "Works of Alexander Hamilton," J.C. Hamilton ed. (New York: 1851) 76.

[6] U.S. Constitution, Article II, Section 1.

[7] The practice of expanding presidential powers has continued steadily but was irrevocably set when the "Strict constructionists" came to power in 1801 and did not curb executive power, but rather enlarged it. The modern theory of Presidential power was conceived by Hamilton, but it is interesting to note his qualification "that the executive power of the nation is vested in the President; subject only to the exceptions and qualifications, which are expressed in the instrument." 7 "Works of Alexander Hamilton," 80-81; see Congressional Research Service, 433 and 437.

[8] U.S. Constitution, Article II, sections 2-4.

[9] See note 7 supra.

tions of the Constitution, such as the Bill of Rights, or Article I (the legislature), or Article III (the judiciary). This then is the proper context for examining facts.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate.

There is massive evidence of misuse of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

1. General powers and duties

The facts show an executive branch that approved a master intelligence plan containing proposals that were specifically identified as illegal,[10] that proposed setting up a private intelligence firm with a "black bag" or breaking and entering capability as secret investigative support for the White House,[11] that set up its own secret police,[12] that used its clandestine police force to violate the rights of American citizens,[13] that hired a private eye to spy on its enemies, including their personal lives, domestic problems, drinking habits, social activities and sexual habits,[14] that circulated an enemies list,[15] that developed plans to "use the available federal machinery to screw our political enemies,[16] that knew of an illegal break-in connected with the Ellsberg case and concealed that fact rather than report it to appropriate authorities,[17] that used a presidential increase in milk support prices to get $5,000 from the milk producers to pay for the Ellsberg break-in,[18] that recruited persons for that break-in on the false pretense of national security,[19] that offered the presiding judge in the Ellsberg trial the FBI Directorship at a clandestine meeting in the midst of the trial,[20] that ordered a warrantless wiretap on a news columnist's telephone,[21] that wiretapped 17 newsmen and government officials in an operation that was outside proper investigative channels,[22] that suggested firebombing the Brookings Institute,[23] that set up an Intelligence Evaluation Committee outside the legitimate intelligence community to disseminate information that should have been restricted to individual agencies,[24] that used the Secret Service to wiretap the President's brother,[25] that kept $350,000 in left-over 1968 campaign funds in a safe in the Chief of Staff's office,[26] that used most of those funds as "hush money" for the Watergate burglars,[27] that approved a large contribution from the milk producers association after being told it was meant to gain access to and favors from the White House,[28] that received and passed on information about an IRS audit of one of the President's friends,[29] that arranged for a tax attorney for the friend.[30]

That contacted the IRS as well as the Justice Department in a number of other tax cases involving friends of the President,[31] that planned and possibly carried out a break-in at the office of a Las Vegas publisher,[32] that suggested a break-in at the apartment of the man who attempted to assassinate Governor Wallace,[33] that contemplated a break-in at the Potomac Associates offices,[34] that tried to rewrite history by making up bogus State Department cables to falsely connect the Kennedy Administration with the assassination of President Diem,[35] that attempted to get reporter William Lambert to use the phony cables in a story,[36] that tried to plant false stories connecting the President's opponent with communist money and the crimes alleged in the Ellsberg case,[37] that installed an elaborate system of taping conversations between the President and his staff or visitors,[38] that told federal investigators to stay out of the Ellsberg matter,[39] that undertook a clandestine operation to hide a key witness in the ITT case in a Denver hospital where she was interrogated by Howard Hunt in disguise,[40] that authorized and funded from within the White House a dirty tricks operation including scurrilous literature, late night telephone campaigns and advertising designed to offend local interests, seemingly sponsored by Democratic candidates, and physical disruptions directed against Presidential opponents,[41] that planted spies, hecklers, and pickets in the Muskie and Humphrey campaigns,[42] that participated in discussions of a campaign against Democrats to include prostitutes, mugging, kidnapping, bugging, and burglary,[43] that pressed for adoption of Liddy's Watergate plan,[44] that was told of the authorization and budget for Liddy's plan,[45] that believed it had received transcripts of illegal wiretaps and never reported that crime,[46] that was warned of the planned break-in at the Watergate and did nothing to stop it,[47] that knew the full scope of Liddy's activities shortly after the Watergate arrests and kept those facts from proper authorities,[48] that shredded Watergate evidence in the Chief of Staff's files,[49] that tried to use one of its executive branch agencies as a "cover" for the Watergate operation,[50] that was the

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[10] See Vol. 3, Ex. 35, p. 1319. This is a plan submitted by Tom Charles Houston to the President and approved in July, 1970. Presidential Statements, May 22, 1973. Part D., entitled "Surreptitious Entry," reads: "Use of this technique is clearly illegal: it amounts to burglary." Id., at 1321.

[11] Operation Sandwedge, drawn up by John Caulfield in late 1971, to infiltrate campaign organizations, with a "Black bag" capability, "surveillance of Democratic primaries," and "derogatory information investigative capability, world-wide." See. Ex. and pp. —, Campaign Practices, supra.

[12] See, the Intelligence Community, infra. (discussion of the establishment and functions of the secret so-called Plumbers unit in the White House).

[13] On June 21, 1974, Mr. Charles Colson, was sentenced to one to three years in jail for, among other things, activities of the Plumbers "to influence, obstruct, and impede the conduct and outcome of the criminal prosecution of Daniel Ellsberg."

[14] See, the list of investigations by Anthony Ulasewicz, The Intelligence Community, infra; see also, Ulasewicz testimony, Vol. 6, pp. 2219-2277.

[15] See, Vol. 4, Exhibits 44, 48-65.

[16] Vol. 4, Ex. 48, p. 1689.

[17] When the prosecutors finally learned of the break-in 18 months after it occurred, they were told by the President, "you stay out of that," even though it was a crime for which at least one defendant has been convicted. Vol. 9, p. 3631.

[18] Ellsberg Break-in Grand Jury Proceedings, 652-656.

[19] Testimony of Bernard Barker, Vol. 1, p. 358.

[20] Testimony of John Ehrlichman, Vol. 6, p. 2617-2619.

[21] At Ehrlichman's instructions, Caulfield had John Regan tap columnist Joseph Kraft's home telephone. John Caulfield Executive Session, March 16, 1974.

[22] See, testimony of Robert Mardian, Vol. 4, pp. 2392-2393; John Ehrlichman, Vol. 4, p. 2529; and John Dean, Vol. 3, p. 920.

[23] John Caulfiend Executive Session, March 23, 1974; testimony of John Dean, Vol. 3, p. 920.

[24] Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, they were called upon to evaluate domestic intelligence-gathering by other agencies, when the Intelligence Evaluation Committee was set up. Testimony of John Dean, Vol. 4, p. 1457.

[25] In a Press Conference on November 17, 1973, the President stated: "The Secret Service did maintain a surveillance. They did so for security reasons, and I will not go beyond that. They were very good reasons, and my brother was aware of it."

[26] Testimony of H.R. Haldeman, Vol. 7, p. 2879; Gordon Strachan, Vol. 6, p. 2442, 2461.

[27] Testimony of Fred LaRue, Vol. 6, p. 2343.

[28] Mr. Kalmbach testified that he reported the original milk producers' contribution, and their request in returr for 90 percent parity, a Presidential address at the r Convention, and a Presidential audience, to Messrs. Ehrlichman, Flanigan, Gleason, and Dent. Herbert Kalmbach, Executive Session.

[29] Gen. Alexander Haig, White House Chief of Staff, was called by William Simon of the Treasury Department and told that Mr. Rebozo was to be audited. Gen. Haig met with White House attorneys on the matter, resulting in a decision to tell the President and volunteer to use the White House attorneys to find a tax lawyer for Mr. Rebozo. Gen. Alexander Haig, Executive Session.

[30] Id.

[31] This help was extended to Dr. Kenneth Riland. Testimony of John Dean, Vol. 4, p. 1530, 1559. It also went to the Rev. Billy Graham and actor John Wayne. Id., at 1529-1530.

[32] Testimony of Howard Hunt, Vol. 9, p. 3687. See also, Transcripts of Presidential Conversations.

[33] Testimony of Howard Hunt, Executive Session, July 25, 1973, p. 129-133.

[34] A White House memo, dated July 6, 1971, from John Caufield to John Dean, stated: "Building appears to have good security with guard present in lobby during day and evening hours. However, a penetration is deemed possible if required."

[35] Testimony of Howard Hunt, Vol. 9, p. 3732.

[36] *Id.*, at 3672.

[37] Vol. 10, Ex. 194, p. 4259 (A memo from Pat Buchanan recommending, "The Ellsberg Connection, tying McGovern to him and his crime—as soon as the indictment come down.") A Dean to Haldeman memo stated, "We need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern. . . ." See, Vol. 8, p. 3171.

[38] Testimony of Alexander Butterfield, Vol. 5, p. 2074.

[39] Testimony of Henry Petersen, Vol. 9, p. 3631.

[40] Testimony of Robert Mardian, Vol. 6, p. 2359; Testimony of Howard Hunt, Vol. 9, p. 3752-53.

[41] See, the Electoral Process, infra (description of the Segretti operation).

[42] See, Executive Session, Herbert Porter, April 2, 1973 (the activities of Sedan Chair I and Sedan Chair II).

[43] Testimony of John Mitchell, Vol. 5, p. 1610.

[44] Testimony of Jeb Magruder, Vol. 2, p. 835. (phone call by Mr. Colson to Mr. Magruder, to "get on the stick and get the Liddy project approved so we can get the information from O'Brien.")

[45] For example, on March 30, 1972, a few days after the Liddy plan was allegedly approved, a memo from Strachan to Haldeman reported, "Magruder reports that 1701 (CPR) now has a sophisticated political intelligence gathering system with a budget of 300." Testimony of Gordon Strachan, Vol. 6, p. 2441. An April 4, 1972, talking paper for a meeting between Mitchell and Haldeman included the intelligence plan and its $300,000 budget. Id., at 2454.

[46] Mr. Strachan testified, "I did not tell Mr. Dean that I had, in fact, destroyed wiretap logs, because I was not then sure what they were, I only had suspicions." Testimony of Gordon Strachan, Vol. 6, p. 2442. Mr. Strachan had also had access to all the Watergate wiretap transcripts. Testimony of Jeb Magruder, Vol. 2, p. 827.

[47] Mr. Strachan, according to Mr. Magruder, was as well briefed, on the evening of June 16, 1972, on the intelligence operation (including the plan for a second break-in on June 17) as anybody at the Committee to Re-Elect. Testimony of Jeb Magruder, Vol. 2, p. 827.

[48] The White House counsel, among others, was fully briefed by Liddy himself three days after the break-in, and given the full story of Liddy's Plumbers' activities as well. Testimony of John Dean, Vol. 3, p. 933.

[49] Testimony of Gordon Strachan, Vol. 6, p. 2458.

[50] Both Mr. Helms and Gen. Walters of the CIA testified that at a meeting on June 23, 1972, with Mr. Haldeman and Mr. Ehrlichman, they were instructed to use the CIA to interfere with the FBI investigation of Watergate. Testimony of Richard Helms, Vol. 8, p. 3238; testimony of General Vernon Walters, Vol. 9, p. 3405.

scene of meetings at which high officials plotted to use the power and influence of the presidency to cover up crimes and obstruct justice,[51] that saw advisors invoke the power of the presidency to use an FBI Director in ways that would eventually cause him to resign.[52]

That used the President's fundraising powers to collect illegal corporate contributions,[53] to raise funds to finance a crime,[54] and to collect bribes for a criminal case,[55] that discussed using the President's clemency prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a "third rate burglary,"[56] that made offers of clemency for improper purposes,[57] that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about Watergate,[58] that discussed, in the Oval Office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits,[59] that purposely lied to the FBI and a federal grand jury,[60] that encouraged campaign officials to commit perjury and plead the Fifth Amendment to obstruct justice,[61] that used the President's personal attorney and White House staff to pay criminal "hush" money,[62] and to pay for a private eye operating out of the White House,[63] that used its influence to get raw FBI files for improper purposes,[64] that prevailed upon the FBI not to interview certain witnesses,[65] that used patriotic concern for the presidency to pressure defendants to plead guilty in a criminal case,[66] that used its influence to get special treatment for high officials before a federal grand jury,[67] that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered the story.[68]

That noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique,"[69] that obstructed Congressional investigations of Watergate and related matters,[70] that filed Watergate counter suits for the distorted purpose of using subpoena powers to delve into the financial and sexual activities of political opponents,[71] that made numerous misleading or false statements about Watergate to the American people,[72] that failed to promptly inform proper authorities about knowledge of crimes involving White House officials,[73] that forced the resignation of a special prosecutor, Attorney General, and Assistant Attorney General when their Watergate prosecution took an independent position,[74] that suggested using the Attorney General's powers to keep a Republican opponent off the primary ballot in Florida,[75] that used the executive's authority over the media's regulatory agencies to intimidate the media,[76] that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, and an anti-trust action, all in response to a newspaper article about one of the President's friends,[77] that tried to punish foundations with views different than White House policy by pressuring the IRS to review their tax exempt status,[78] that set up a program to insure that government contracts, grants, and loans would, as a matter of government policy, be political rewards,[79] that treated the Presidential pardon as a political tool,[80] that used its power over the tax collection agency to gather intelligence on and harass political opponents,[81] that issued instructions to hire a shaggy person to sit in front of the White House with a McGovern button, and counter demonstrators at the funeral of J. Edgar Hoover,[82] that infiltrated a Quaker vigil in front of the White House,[83] that used the agency that is supposed to guard the President to spy on the President's political opponent,[84] that ordered 24 hour surveillance of a political opponent.[85]

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[51] As soon as Mr. Dean returned to Washington after the break-in, he began meeting with White House officials, such as his meetings on June 19, 1972, with Messrs. Ehrlichman, Colson, and others to discuss how to handle Liddy and the contents of Hunt's safe. Testimony of John Dean, Vol. 3, p. 934.

[52] Patrick Gray testified that he took the Hunt files and destroyed them because the order came from "the counsel to the President of the United States issued in the presence of one of the two top assistants to the President of the United States." Testimony of Patrick Gray, Vol. 9, p. 3467.

[53] See, testimony of eight corporate executives convicted of illegal corporate contributions, Nov. 13–15, 1973. Vol. 13.

[54] Not only was the Ellsberg break-in financed by milk producers' money (see, note 18, supra), but the Watergate break-in was financed by money from the Committee to Re-Elect. Testimony of Hugh Sloan, Vol. 2, p. 539; testimony of Maruice Stans, Vol. 2, p. 795.

[55] Mr. Kalmbach was asked to raise funds for the Watergate burglars. Testimony of John Dean, Vol. 3, p. 950; confirmed by Transcripts of Presidential Conversations, April 14, 1973, p. 494.

[56] Presidential Statement of August 15, 1973, p.3; testimony of John Ehrlichman, Vol. 7, p. 2848–2849.

[57] On at least three occasions Watergate defendant James McCord received offers of executive clemency if he would remain silent and plead guilty. Testimony of James McCord, Vol. 1, pp. 131, 132, 135, 139–141.

[58] Testimony of John Dean, Vol. 3, p. 955.

[59] Testimony of John Dean, Vol. 3, p. 958. "He (Judge Ritchie) has made several entrees off the bench—one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Roemer that he though Maury (Maurice Stans) ought to file a liber action." Transcripts of Presidential Conversations, September 15, 1972, p. 60.

[60] Herbert L. Porter pleaded guilty, on January 28, 1974, to one count of making false statements to FBI agents. Gordon Strachan testified that he was expressly asked to do something he knew was improper related to his grand jury testimony of April, 1973. Testimony of Gordon Strachan, Vol. 6, p. 2443. See, also testimony of Jeb Stuart Magruder, Vol. 2, pp. 801, 802, 804, 831–832.

[61] Dean attempted to get Sloan's lawyers to have Sloan take the Fifth Amendment. Testimony of Hugh Sloan, Vol. 2, pp. 585, 586. Herbert Porter testified that he was asked to perjure himself by Magruder concerning the amount given Liddy—asked to say he gave $100,000 to pay surrogates. Porter, subsequently, perjured himself to the grand jury and in the trial. Testimony of Herbert L. Porter, Vol. 2, pp. 635–637.

[62] Testimony of John Dean, Vol. 3, p. 950. Kalmbach recollected that Dean stressed secrecy with respect to raising funds for the defendants, that he made a very strong point that there was absolute secrecy required, confidentiality, indicating that if this became known, it might jeopardize the campaign and cause misinterpretation. Testimony of Herbert Kalmbach, Vol. 5, p. 2098.

[63] Mr. Caulfield worker on his intelligence projects with Mr. Ehrlichman and Mr. Kalmbach. He hired Mr. Ulasewicz on July 9, 1969, who was paid on a monthly basis through the Kalmbach law firm. Testimony of John Caulfield, Vol. 1, p. 251.

[64] Testimony of John Dean, Vol. 3, pp. 944–945. Testimony of L. Patrick Gray, Vol. 9, p. 3479.

[65] At the request of Mr. Dean, Mr. Gray held up FBI interviews with such valuable witnesses as Mr. Dahlber, Mr. Ogarrio and Kathleen Chenow. On June 28, Dean requested Gray to hold up an interview with Kathleen Chenow on grounds of national security. Testimony of L. Patrick Gray, Vol. 9, p. 3455.

[66] Testimony of Bernard L. Barker, Vol. 1, p. 358.

[67] Petersen testified that he received a telephone call from Ehrlichman asking that Mr. Stans be excused from going to the grand jury and telling Petersen to stop harassing Stans. Testimony of Henry Petersen, Vol. 9, p. 3618.

[68] Testimony of Clark MacGregor, Vol. 12, p. 5019.

[69] Memorandum of July 8, 1971, from Patrick L. Buchanan to John Ehrlichman.

[70] Mr. Mitchell testified that there were many discussions of preventing the House Banking and Currency Committee hearings from getting off the ground, including possible use of assistance from the Justice Department. Testimony of John Mitchell, Vol. 5, p. 1897. The Lacosta meetings, which discussed the use of executive privilege to prevent testimony of people from the White House, could well be concluded to evidence an intention to prevent the facts from becoming known, according to Mr. Dean. Testimony of John Dean, Vol. 4, p. 1460.

[71] Testimony of John Dean, Vol. 3, p. 957.

[72] For example, a meeting on October 15, 1972, at the White House, with Ehrlichman, Ziegler, Buchanan, Moore, Chapin, and Dean was held to prepare a press response to Segretti stories. It was decided to attack and deny the stories, even though an intense investigation within the White House had already established the basic truth of the stories. The same denial was issued again in succeeding months. Testimony of John Dean, Vol. 3 pp. 1202, 1206, and 1209; notes of the meetings, Vol. 3, p. 1200.

[73] Aside from the coverup in general, the President claims to have learned of crimes on March 21, 1973, but did not tell the prosecutors about this evidence until they came to him on April 15, 1973. Testimony of Richard Kleindienst, Vol. 9, pp. 3579–3580; testimony of Henry Petersen, Vol. 9, p. 3628.

[74] On October 20, 1973, Attorney General Richardson and Assistant Attorney General Ruckelshaus resigned in response to the President's demand that they fire Special Prosecutor Cox, who wanted to appeal a court decision involving Watergate evidence to the Supreme Court. See also, Executive Session of General Alexander Haig.

[75] Memo to the Attorney General from Mr. Magruder, August 11, 1971: "Pat Buchanan suggested that maybe we could have the Florida State Chairman do whatever he can under this law to keep McCloskey (Rep. McCloskey, R-Calif.) off the ballot." Vol. 10, Ex. 177, p. 4194.

[76] Memo from Charles Colson to H.R. Haldeman, September 25, 1970, recommending that he "pursue with Dean Burch the possibility of an interpretive ruling by the FCC . . . this point could be very favorably clarified and it would, of course, have an inhibiting impact on the networks. . . ."

[77] When the newspaper Newsday decided to run an in-depth article on Mr. Rebozo, the reporter writing the story was audited at White House request, an FBI agent investigated the newspaper's offices, an anti-trust suit was recommended, and the Secret Service investigated the reporters activities while they were writing the story. Testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974 (Exhibit 7).

[78] Memo to the President from Patrick Buchanan, March 3, 1970. Vol. 10, p. 4114.

[79] Memo from Fred Malek to H.R. Haldeman, March 17, 1972, entitled "Increasing the Responsiveness of the Executive Branch."

[80] For example, a request that a prominent Jewish figure in Florida be pardoned for political benefit. In a memo to John Dean, Charles Colson recommends, "If there is anything we can do properly, we should . . . this has to be handled with extreme care." Testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974. The pardon was granted and a $30,000 contribution followed. Interview with Calvin Kovens, October 25, 1973.

[81] See, Vol. 4, Ex. 44, p. 1682, 1694, 1695.

[82] Testimony of Robert Reisner, Vol. 2, pp. 500, 512.

[83] Interview with Jeb Magruder, August 8, 1973.

[84] White House memo from Steve Karalekas to Charles Colson, August 16, 1972, referring to the activities of Agent Bolton. See also, testimony of John Dean. Vol. 3, pp. 923, 1071.

[85] "It was my understanding, based on my discussion with John Dean, that there was to be a 24-hour tail on Senator Kennedy." Testimony of Gordon Strachan, Vol. 6, p. 2492.

That used the Departments to dredge up potentially embarrassing information on presidential contenders, and then leaked it to the press,[86] that used White House influence to obtain CIA equipment for the Ellsberg break-in,[87] that used its entrustment with our national security to convince four cubans to burglarize a political party,[88] that ordered an FBI investigation of an unfriendly newsman to harass him,[89] that proposed leaking confidential FBI files to embarrass the producer of a satirical movie,[90] that used its control of important Watergate evidence and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition,[91] that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands,[92] that participated actively and formally in a campaign organization while drawing White House staff salaries,[93] that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.[94]

That, all of that, violated the consent of Executive power in article II of the Constitution. Excerpts from the record only selected examples. It certainly is not what our Founding Fathers had in mind when they envisaged the Presidency.

2. ENUMERATED POWERS AND DUTIES

The so-called enumerated powers and duties of the President's office are set forth beginning with Section 2 of Article II. That Section grants the President direct power over Cabinet officers,[95] and much testimony before this Committee demonstrated how those officers were used on behalf of the President's office.

An Attorney General, for a significant period of time, ran the President's re-election campaign while still in office at the Justice Department.[96] His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States," [97] even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong.[98]

Memos from CRP, such as one entitled "Grantsmanship", suggesting an effective method of "insuring that political considerations" be used in Federal programs,[99] were sent to the Attorney General from May 1, 1971, onward.[100] At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida.[101] That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnapping.[102]

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation.[103] He was then asked to provide raw FBI Watergate files, perhaps improperly, to the White House. That same Attorney General was later used as a secret contact with this Committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affairs.[104] He eventually became the first Attorney General in history convicted of a crime, for his testimony about the ITT matter.[105]

A third Attorney General was forced to resign his office when he backed the Special Prosecutor's procedure for obtaining Watergate evidence from the White House.[106]

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House,[107] and was later told by the President not to investigate the Ellsberg break-in.[108] Another Assistant Attorney General was forced to resign when he backed the Special Prosecutor's decisions in the Watergate case.[109] Still another Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House.[110]

Three Attorney Generals and three Assistant Attorney Generals. And all this was done on behalf of the presidency, which has a Constitutional responsibility to "take Care that the Laws be faithfully executed." [111]

A Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's re-election, including, as it turns out, a number of illegal corporate contributions.[112] A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at least $10,000 in cash for his personal use.

He later aided them in tax and antitrust matters at a time when a large contribution to the President from the milk producers was being arranged.[113]

The Commissioner of the Internal Revenue Service was criticized because "practically every effort to proceed in sensitive areas is met with resistance, delay and the threat of derogatory exposure."[114] The Director of the CIA, accordingly to his own testimony and that of his assistant, was called to the White House and asked to use the CIA to cover up Watergate.[115] The Acting Director of the FBI was brought to the White House and given material from the safe of one of the Watergate burglars, to keep it hidden, an act which resulted in his eventual resignation.[116]

That same Acting Director turned over raw FBI files on Watergate to the White House [117] perhaps illegally,[118] when assured it was at the President's request,[119] which request the President has confirmed in public statements.[120] He was rewarded by being left to "twist slowly, slowly in the wind"[121] while his nomination to permanent Director was pending before the Senate, even though the President has reportedly already abandoned him.[122]

This is how the officers in the departments and agencies were used by the White House, and it is clear that those activities did not pertain to "any subject relating to the Duties of their respective offices."[123] as the Constitution requires in its grant of Presidential authority in this area.

Immediately following the Section in Article II granting authority over departments and agencies, is a section giving the President the "power to grant Reprieves and Pardons for Offenses against the United States."[124]

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[86] See, memo from Fred Malek to H.R. Haldeman, entitled "Increasing the Responsiveness of the Executive Branch, dated March 17, 1972.

[87] On July 7, 1971, John Ehrlichman called General Cushman, Deputy Director of the CIA, to arrange CIA assistance to Howard Hunt for disguise purposes. Hunt told Cushman that he (Hunt) had been charged with a "sensitive mission" by the White House to "interview a person whose ideology he was not certain of." Testimony of General Robert Cushman, Jr., Vol. 8, pp. 3290-92.

[88] Testimony of Bernard Barker, Vol. 1, p. 358.

[89] Mr. Haldeman ordered an investigation of newsman Daniel Schorr. See Vol. 4, p. 1490.

[90] Memo from John Caulfied to John Dean, dated June 25, 1971, subject: Emile de Antonio, producer of "Millhouse;" New Yorker Films, Inc.; and Daniel Talbot, film distributor. "I recommend that it is time to move on the above firm and individuals, as follows: (A) Release of de Antonio's FBI derogatory background to friendly media. (B) discreet IRS audits of New Yorker Films, Inc., de Antonio and Talbot."

[91] Mr. Haldeman testified that he had access to various tapes of presidential conversations. (See Vol. 8, pp. 3050-51); compare with testimony of John Dean, Vol. 4, p. 1503.

[92] See Vol. 4, Exhibit 44, p. 1682.

[93] Testimony of Robert Odle: "those people who were at the White House had influence over the (Committee for the Re-Election of the President), they gave it direction, they assisted it." See Vol. 1, p. 23.

[94] See, the Party Process, supra.

[95] U.S. Constitution, Article II, sec. 2.

[96] Mr. Mitchell testified that he "had frequent meetings with individuals (from CRP) dealing with matters of policy," before he resigned as Attorney General. Testimony of John Mitchell, Vol. 5, p. 1653.

[97] Testimony of John Mitchell, Vol. 5, p. 1859.

[98] Id.

[99] Vol. 1, Ex. 1. p. 449.

[100] See, testimony of Robert C. Odle, Vol. 1, p. 40-41.

[101] See, note 75 supra.

[102] Testimony of John Mitchell, Vol. 5, p. 1610.

[103] Testimony of John Dean, Vol. 3, p. 936.

[104] See, testimony of Richard G. Kliendienst, Vol. 9, p. 3597.

[105] Richard G. Kliendienst pleaded guilty, on May 16, 1974, to one count of refusing to testify about ITT; sentenced June 7, 1974 to one month unsupervised probation.

[106] On October 20, 1973, Attorney General Richardson resigned in a dispute with the President over the firing of Special Prosecutor, Archibald Cox.

[107] Testimony of John Dean, Vol. 3, p. 944-945.

[108] Testimony of Henry Petersen, Vol. 9, p. 3631.

[109] On October 20, 1973, Assistant Attorney General William Ruckelshaus resigned in response to the President's request to fire Special Prosecutor Archibald Cox.

[110] With the approval of the Attorney General John Mitchell, Mr. McCord testified that he received information, on a daily basis, from the Internal Security Division of the Justice Department, which information included FBI data and data on individuals of both a political and non-political nature. Testimony of James McCord, Vol. 1, pp. 178-183.

[111] U.S. Const., Act. II, sec. 3.

[112] Testimony of Maurice H. Stans, Vol. 2, p. 734.

[113] See, Milk Fund Investigation, supra.

[114] Transcripts of Presidential Conversations, Sept. 15, 1972.

[115] Testimony of Richard Helms, Vol. 8, p. 3238. Testimony of Lt. Gen. Vernon Walters, Vol. 9, p. 3405.

[116] Testimony of L. Patrick Gray, Vol. 9, p. 3467. Testimony of John Ehrlichman, Vol. 7, p. 2674.

[117] Testimony of John Dean, Vol. 3, p. 945.

[118] John Dean pleaded guilty to an "information" charge that included a conspiracy to obtain FBI Watergate files. (U.S. v Dean, D.D.C., No. 886-73).

[119] see testimony of L. Patrick Gray, Vol. 9, p. 3479-81.

[120] Presidential statements of March 2, 1973, April 5, 1973, and October 19, 1973.

[121] Testimony of John Ehrlichman, Vol. 7, p. 2679.

[122] See, Vol. 7, Ex. 102, p. 2950.

[123] U.S. Const., Art. II, sec. 2.

[124] U.S. Const., Art. II, sec. 2.

There is undisputed testimony that defendants in the Watergate criminal case were offered clemency in exchange for their silence.[125] Aside from the issue as to who authorized the offers, they were particularly firm in the case of one defendant who was apparently ignoring the "game plan."[126]

There is the well-documented case of a request from a former Senator, and close friend of the President, for a pardon on behalf of a prominent jewish figure in Florida, because of the political advantage that would follow.[127] That pardon was granted. The beneficiary then gave the President's campaign $30,000.[128]

Article II also gives the executive the power to appoint ambassadors. Whereas this has often been a source of political reward, there is substantial evidence of an unusually well-organized and enforced program of "ambassadorships-for-sale," in return for specific support in the 1972 Presidential campaign.[129]

Along with appointive power for ambassadors, the executive has appointive power over lesser "Officers of the United States."[130] This power was used, for example, as a reward for at least one participant in Watergate, who received a prominent position in the Department of Commerce.[131] Another CRP official in charge of certain spy activities pointedly reminded the White House of the work he had done when he applied for employment after the election.[132] Plans were also drawn up to use this appointive power in the President's second term to get rid of officials, across the board, who rightfully placed their professional responsibilities in the way of White House political demands.[133]

These enumerated powers and duties of the executive are followed with the duty to "take Care that the Laws be faithfully executed."[134] Evidence was presented to this Committee of a break-in by a White House unit, which break-in contributed to a mistrial in a major national security case, the Ellsberg Case. Illegal use of wiretaps and agent provocateurs by the administration was the direct cause of mistrials or dismissals in most major conspiracy cases brought by the federal government during this same period.[135]

This was an executive branch that conspired to present perjury, lie to the FBI, and pay for the silence of key witnesses in the Watergate case. This was the executive that knew of a break-in related to the Ellsberg case and failed to take any action or report that fact.[136] This was the executive that told an Assistant Attorney General not to investigate the Ellsberg matter.[137] This was the administration that learned of the Watergate planning sessions, budget approval, that received illegal wiretap transcripts, and covered up or failed to promptly report White House involvement in Watergate as those facts became known.

This is the White House that pressured the IRS, the Antitrust Division of Justice, the CIA, the FBI, the Secret Service, and the FCC to enforce laws not "faithfully," but "selectively."[138]

This is the same White House in which the President said in a conversation with John Dean on September 15, 1972, "We have not used the power in the first four years as you know. We have never used it. We have not used the Bureau (FBI) and we have not used the Justice Department but things are going to change now." The following months may or may not have been a change from what had been going on in 1970, 1971, and 1972, but they certainly were a sad chapter for our system of laws.

And again, Mr. President, I repeat a necessity to cite all these examples is that they are the background for the recommendation of the Watergate Committee which stated:

The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government. The Select Committee opposes various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office.

This is the committee that said:

Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns. The abuses experienced during the '72 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions.

We recognized, in other words, that this was a government run amok and we were unwilling to go ahead and create another agency and another Federal power with which to abuse the political process.

B. SEPARATION OF POWERS

The separation of powers between three constitutionally equal and mutually independent branches of government is one of our foremost Constitutional doctrines.[139] It is often expressed as the concept of "checks and balances." Its success depends to a large degree on self-adherence and restraint by those in a position to upset the balance.

The record of Watergate reflects a conscious attempt to undermine the responsibilities of the other two branches, as set forth in Article I, which established the legislature, and Article III, which established the judiciary.

The first Congressional body to take an interest in the Watergate matter was the House Banking and Currency Committee. Every attempt was made to use executive power and influence, not to legitimately respond to that Committee's investigation, but rather to obstruct, block, and actively mislead it.[140] The executive branch had sole possession of critical evidence necessary to that investigation. Its overt attempts to undermine the Committee's work were therefore of great significance.

A different type of obstacle to the exercise of Congressional powers occurred when nominees for high executive branch positions were sent before Senate Committees for confirmation. In a number of instances, those nominees consciously misled Committee inquiries and prepared testimony in such a way that relevant facts would be concealed.[141] To the extent that the nomination process was subverted, those who participated or were responsible deprived the Congress of a fundamental Constitutional duty, the duty to advise and consent.

Discussions by senior White House officials of what were termed Watergate tactics, and meetings at LaCosta, California, focused on ways of obstructing an investigation of Watergate by the Senate. This included tactics such as the use of executive privilige to prevent the testimony of people from the White House,[142] efforts to influence members of the Senate Committee conducting the investigation, and the compiling of campaign financing data from those members' past campaigns in an effort to embarrass them. The attack group, a media-oriented White House group, arranged to meet with people from North Carolina thought to have embarrassing information about the Chairman.[143] Members

[125] McCord testified that Mr. Caulfield assured him of executive clemency, support for the family and rehabilitations after prison on numerous occasions. Testimony of James McCord, Vol. 1, p. 131.

[126] On January 13, 1973, Mr. McCord met Mr. Caulfield and another message was conveyed as to clemency, along with statements that the President's ability to govern was at stake, another Teapot Dome scandal was possible, the government may fall, and everybody else was on the track but McCord, who was not following the "game plan," and who should get "closer to your attorney" and keep silent. Testimony of James McCord, Vol. 1, p. 139-140.

[127] See, testimony of Senator Lowell Weicker, Jr. Hearings on Warrantless Wiretapping and Electronic Surveillance, p. 151-155.

[128] Interview with Calvin Kovens, October 25, 1973.

[129] See, Use of the Incumbency—Responsiveness Program, supra.

[130] U.S. Const., Art. II, sec. 2.

[131] Jeb S. Magruder was appointed to the office of Deputy Director of Communications in the Department of Commerce after numerous discussions, with H.R. Haldeman and John Mitchell among others, as to the sensitivity of the administration and its need to take care of Magruder. Testimony of Jeb Magruder, Vol. 2, p. 806.

[132] Testimony of Herbert Porter, Vol. 2, p. 653; see also, testimony of Jeb Magruder, Vol. 2, p. 806.

[133] Vol. 4, Ex. 44, p. 1682.

[134] U.S. Const., Art. II, sec. 3.

[135] On May 13, 1974, in an unanimous ruling, the Supreme Court affirmed a decision prohibiting the use, against more than 600 defendants in Federal criminal cases of evidence obtained under wiretapping applications that were improperly signed by executive assistant rather than the Attorney General. (No. 72-1057, United States v. Girorando).

[136] Testimony of Henry Petersen, Vol. 9, pp. 3630-3631; see also, testimony of Richard Kleindienst, p. 3574.

[137] Testimony of Henry Petersen, Vol. 9, p. 3631.

[138] See, note 77 supra; testimony of Howard Hunt, Vol. 9, pp. 3752-53; testimony of Patrick Gray, Vol. 9, p. 3467; and note 84 supra.

[139] It is an historic concept of government derived from Aristotle and Montesquieu, based on the contention that "men entrusted with power tend to abuse it." For a good discussion of this concept, see Locke, *The Second Treatise on Civil Government*, section 141; Duff and Whiteside, 4 *Selected Essays on Constitutional Law*, 291-316 (1938).

[140] Testimony of John Dean, Vol. 3, pp. 961, 1575.

[141] Testimony of John Dean, Vol. 3, pp. 1007-1008.

[142] "The White House will take a public posture of full cooperation, but privately will attempt to restrain the investigation and make it as difficult as possible to get information and witnesses." Testimony of John Dean, Vol. 3, p. 984.

[143] Dean testified that there was a discussion that one of the ways of pressuring the Ervin committee was to review contributions made by the White House to members of the committee in the 1970 election, and that with this in mind records of those contributions were placed by Mr. Colson in Mr. Dean's safe so they could be looked into. Testimony of John Dean, Vol. 4, pp. 1501-1502. Dean recalled a conversation with Mr. Baroody, of the attack group (media-oriented White House group), in which Baroody told Dean that either that night or the next night he was meeting with some people from North Carolina who thought they might have some interesting information on Senator Ervin. Testimony of John Dean, Vol. 4, p. 1534.

of the administration were used as clandestine contacts with Republicans on the Committee to either give "guidance" or gather intelligence on what facts the Committee possessed.[144] John Dean was suggested as a liaison with the Committee after he had admitted wrongdoing in the coverup,[145] and efforts toward having a "White House" minority counsel were put forward.[1456]

Separation of powers also encompasses Article III, the judiciary. Here again, the executive subverted the Constitutional balance. As an example, on September 15, 1972, in a conversation in the Oval Office, the President was told by Mr. Dean that ex parte (out-of-court) contacts had been made with the judge in one of the Watergate-related civil suits.[147] These contacts were for the purpose of obtaining an advantage in the case by keeping apprised of inside information, and they could well be unethical.[148] There was no evidence that the White House took any steps to stop that activity.

Still another abuse of the separation between the executive and judicial branches, was a contact made with the presiding judge in the Ellsberg case. That judge was asked if he would be interested in becoming Director of the FBI. Significantly, the offer was made in rather clandestine circumstances, at the very time the Ellsberg case was being tried, and at a time when it was becoming ever more possible that the break-in at Ellsberg's psychiatrist might become known to the judge and jeopardize the case against Ellsberg.[149] A contact under such circumstances, by one of the top White House officials and briefly by the President himself,[150] once again threatened the concept of mutual independence intended by the separation of powers.

To leave the report for a minute, why is it that with such a record of abuse, not just by the President of the United States, but also by the Internal Revenue Service, the Treasury Department, the Commerce Department, the Justice Department, the Federal Bureau of Investigation, the Central Intelligence Agency, the Federal Communications Commission—why is it that the people of this Nation should give to the Government the power over the election process itself, the one check which the people hold over all of us, be we Senators, Presidents, or Congressmen? There is nothing in the record to assure that any such process would be free from tampering, so why this rush to a Federal financing scheme?

I think it is because of what I referred to earlier as a desire to prop ourselves up. It has nothing to do with bettering the system. The system is fine as long as it remains in the hands of the people. If we do not have the ideas or the ability to communicate those ideas, we do not deserve support, either in terms of votes or money.

That, to some degree, is exactly what the American public is saying right now, because it is not voting. It is turned off. It is turned off by the contradictions that take place daily in terms of our words and our actions. It is turned off by the fact that we do not address ourselves to the real issues, to the real opportunities for the people of this Nation, to the real problems of the people of this Nation. It is turned off by election campaigns that go on and on and on and on.

Instead of trying to address all this, we are merely trying to find a way to pay for it and, in trying to pay for it, put this free election process, this check on government, into the hands of government.

I do not accept the argument, "Well, nothing bad will really happen." It can happen insofar as a Federal financing scheme of politics is concerned, just as it happened in terms of the execution of the Office of the President of the United States.

To get back to the report:

C. THE BILL OF RIGHTS

Unlike other amendments to the Constitution, the Bill of Rights was drawn up as something of a cohesive declaration of rights. It comprises the first ten amendments, and represents a guarantee of individual freedoms that are fundamental to democracy.

The First, Fourth, Fifth, and Sixth Amendments are the bulwark of the substantive guarantees in our Bill of Rights. They were, without exception, attacked and violated by Watergate and related events.

That attack focused on the First Amendment, which by its very words, as well as the prominent role it has taken in our history, mark it as a profoundly important statement of individual rights. Specifically, it protects freedom of expression in four forms—freedom of speech, press, assembly, and petition.

Those who spoke out against the administration, whether it was the Chairman of the Democratic Party or Senators expressing their opposition, whether it was a prominent or unknown citizen, or whether a member of the administration itself, often found themselves the target of official retaliation for having exercised their freedom of speech.

"People who were most vocal and could command some audience were considered enemies or opponents." [151]

One witness testified that the White House was continually seeking intelligence information about demonstration leaders and their supporters that would either discredit them personally or indicate that the demonstration was in fact sponsored by some foreign enemy. There were also White House requests for information regarding ties between major political figures (specifically Members of the U.S. Senate) who opposed the President's war policies and the demonstration leaders.[152]

Interference with the freedom of speech of such opponents took a wide variety of forms. It included a program run by Donald Segretti, in which his operatives were asked to "obtain hecklers," to be used to disrupt the speeches of Democratic presidential candidates.[153]

According to Mr. Haldeman, the "enemies list" was drawn up to deprive those "who were expressing vocal opposition" to the White House of any "platform for getting extraordinary publicity for their expression of opposition." [154] Thus, they were labeled as "enemies," their names circulated through the government, and as a group, identified for semi-official executive branch action.

Aside from the enemies or opposing candidates, selected individuals who expressed opposition were subjected to questionable tactics. As an example, Alfred Baldwin conducted surveillance of various outspoken Senators and Congressmen, including Representatives Abzug, Chisholm, Koch, and McCloskey, and Senators Javits, Kennedy, and Proxmire.[155]

Senator Kennedy was not only subjected to the Baldwin surveillance. He was also a target of Anthony Ulasewicz and John Caulfield, who investigated his political contributors, his accident at Chappaquidick, and a trip to Hawaii on official buisness.[156] Howard Hunt was asked by Mr. Colson to get information from a Kennedy friend in Rhode Island, and was provided with a CIA disguise for the operation.[157] Mr. Haldeman, according to multiple testimony, asked that Senator Kennedy be subjected to 24-hour surveillance. Literally dozens of citizens who spoke out in opposition were targets of Ulasewicz investigations, which were paid for by the President's personal attorney, supervised by Mr. Ehrlichman, and conducted outside law enforcement channels, because legitimate law enforcement was not involved.

The Watergate break-in itself, according to Jeb Magruder, was an attempt to find embarrassing information about Lawrence O'Brien, because "Mr. O'Brien had been a very effective spokesman against our position on the ITT case." [158] Magruder testified that because of O'Brien's effectiveness in speaking out, "we had hope that information (from the illegal break-in and wire-tap) might discredit him." [159] This is an interesting use of the power and influence of the presidency, in light of the First Amendment. It has what is often called, in Supreme Court, First Amendment cases, "a chilling effect." To the extent government actions intimidate free speech, they violate the Constitution.

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[144] Attorney General Kleindienst was directed to meet with Senator Baker and provide guidance. Transcripts of Presidential Conversations, March 22, 1973.

P. "John, you would have no problems to talk with Pat Gray and ask him what the hell Weicker is up to. Do you mind?

E. Not at all."

Transcripts of Presidential Conversations, March 27, 1973 (discussion between the President and Mr. Ehrlichman).

[145] "Mitchell: I think it would be appropriate for your Counsel to be present.

Dean: That's right.

President: Alright. Now that that is done let's get down to the questions—"

Transcripts of Presidential Conversations, March 22, 1973.

[146] Testimony of John Dean, Vol. 3, p. 984.

[147] See, note 59, supra.

[148] Canon 7 of the Code of Professional Responsibility, Ethical Considerations, pp. 7-35.

[149] Testimony of John Ehrlichman, Vol. 6, pp. 2617-2619.

[150] Id.

[151] Testimony of John Dean, Vol. 4, p. 1459.

[152] Testimony of John Dean, Vol. 3, p. 915.

[153] Testimony of Robert M. Benz, Vol. II, p. 4404.

[154] Testimony of H.R. Haldeman, Vol. 8, p. 3155.

[155] Testimony of Alfred Baldwin, Vol. 1, pp. 396-397.

[156] Testimony of John Dean, Vol. 3, pp. 922-23; see also, testimony of Howard Hunt, Vol. 9, pp. 377-78. This resulted in a written report by Caulfield of Senator Kennedy's trip to Honolulu in August, 1971. See, Vol. 3, Ex. 34-4, p. 1117.

[157] Executive Session of John Caulfield, March 16, 1974, p. 85.

[158] Testimony of Jeb Magruder, Vol. 2, p. 790.

[159] *Id.*

Those who chose to exercise constitutionally recognized "symbolic" speech, such as displaying a placard, were likewise interfered with. There was testimony that "during the late winter of 1971, when the President happened to look out the windows of the residence of the White House and saw a lone man with a large 10-foot sign stretched out in front of Lafayette Park," [160] Mr. Higby told Mr. Dean of the President's displeasure with the sign. Mr. Haldeman said the sign had to come down, and when dean came out of Higby's office he "ran into Mr. Dwight Chapin who said that he was going to get some 'thugs' to remove that man from Lafayette Park. He said it would take him a few hours to get them, but they could do the job." [161]

This was the White House, and its apparent version of First Amendment rights of free speech. It also is indicative of the White House attitude to the First Amendment's "right of the people to peaceably assemble, and to petition the Government for a redress of grievances," [162] an attitude that likewise runs through much of its attack on the press.

The press, however, came in for especially intensive intimidation. A memo from Mr. Magruder to Mr. Haldeman, entitled "The Shot-gun versus the Rifle,"[163] set out a plan for influencing news coverage of the White House. It gives some idea of the executive branch concept of our free press.

Among its specific suggestions was a recommendation to "utilize the anti-trust division (of the Justice Department) to investigate various media relating to anti-trust violations. Even the possible threat of anti-trust action I think would be effective in changing their views." [164] Such a recommendation is clearly wrong, an abuse of government, and an abuse of the First Amendment. In at least one case, involving an in-depth story on Charles G. Rebozo, an anti-trust action was recommended against the Los Angeles Times, which owned the paper doing the story.[165]

Another recommendation in "The Shot-gun versus the Rifle" was "utilizing the Internal Revenue Service as a method to look into the various organizations that we are most concerned about. Just the threat of an IRS investigation will probably turn their approach." [166] It would again be illegal. And again in the Rebozo story, the newsman in charge of the story was in fact audited, at the specific request of the White House.[167]

Newscaster Chet Huntley wrote a piece in Life magazine, containing what were considered unfavorable remarks. The suggestions for retaliation against Huntley, in a White House memo by Mr. Higby, contained a telling statement of broad philosophy: "What we are trying to do here is tear down the institution." [168]

The broader tactics used against the press included meetings between Mr. Charles Colson and media representatives. In a summary of his meetings with the three network chief executives, he observed that they were terribly nervous about the Federal Communications Commission. He stated that, "although they tried to disguise this, it was obvious. The harder I pressed them (CBS and NBC) the more accommodating, cordial and almost apologetic they became." [169] He concluded by observing that "I thing we can dampen their ardor for putting on 'loyal opposition' type programs." [170] One of the bassic guarantees of a free press is that government power not be used as prior restraint on the content of news.

Individual newsmen that were apparently critical of the administration were likewise intimidated. One such newsman, Daniel Schorr of CBS, was investigated by the FBI. When the investigation became known, the false story that he was being considered for a high administration position was put out, and Mr. Malek took the blame for the investigation even though it had been ordered by Mr. Haldeman.[171]

Newspapers and reporters that uncovered the Watergate story were publicly attacked and ridiculed. In one case, four months after the break-in, the "official White House position" was that stories about Donald Segretti were "stories based on hearsay, character assassination, innuendo or guilt by association." [172] That statement was later called "inoperative," after the White House had been unable to cover up the truth in the story.

Newspapers were exploited, by using them to put out stories known to be misleading, improper, and in some cases totally false. For example, Mr. Hunt testified that he used confidential FBI files to prepare a derogatory article on Mr. Leonard Boudin, an attorney in the Ellsberg case, which information Mr. Colson passed on to the working press.[173]

A memo from Mr. Haldeman stated that "we need to get our people to put out the story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern and thus to the Democrats as part of the peace movement.[174] Even though there was no evidence to support such stories, the memo went on to recommend, "we could let (columnists) Evans and Novak put it out and then be asked about it to make the point that we knew and the President said it was not to be used under any circumstance." [175]

Falsely tying Senator McGovern to Communist money was not the only false connection that was suggested. Mr. Patrick Buchanan recommended a number of campaign news strategies including, "The Ellsberg connection, tying McGovern to him (Ellsberg) and his crime," because "if the country goes to the polls in November scared to death of McGovern, thinking him vaguely anti-America and radical and pro the left-wingers and militants then they will vote against him—which means for us." [176] This is a clear abuse of executive power as to the press.

One of the most cold-blooded memos to come out of the White House during this period was written by Patrick J. Buchanan. It analyzed the pros and cons of a press attack on Dr. Ellsberg.

The memo begins, "having considered the matter until the early hours, my view is that there are some dividends to be derived from Project Ellsberg." Giving his personal view, Buchanan stated, "To me it would assuredly be psychologically satisfying to cut the innards from Ellsberg," an attitude which has brought his fellow White House staffers, Mr. Colson, a jail term.

Nevertheless, Buchanan concluded that the Ellsberg issue would not "be turned around in the public mind by a few well-placed leaks." Lest there be any doubt about his position, he then stated, "This is not to argue that the effort is not worthwhile—but that simply we ought not now to start investing major personnel resources in the kind of covert operation not likely to yield any major political dividends to the President."[177]

No legal or moral problems for Buchanan; just an objection to the management end of it.

Mr. Buchanan also testified, as to documents surreptitiously taken from the Muskie campaign and photographed by "Fat Jack." Buchanan testified that he "did get the material on two occasions, and (he) did recommend that it be sent to columnists Evans and Novak. Evans and Novak did print, on two occasions, I believe, material from Muskie's campaign." [178] Here again was a high official, using the credibility of the White House, to peddle wrongfully obtained confidential information.

Material obtained secretly from the Commerce Department relative to Senator Muskie's apparently legitimate attempts to help the Maine sugar beet industry as their Senator was leaked to the press, for political purposes, when that industry began to fail.[179]

Information from the Department of Defense as to Senator McGovern's personal and confidential war records was recommended for leak to press.[180]

Testimony was received that Mr. Colson ordered the fabrication of State Department cables relative to the Kennedy Administration's handling of President Diem's assassination, and recommended that this false information be leaked to Mr. William Lambert of Life magazine.[181] All this was a blatant attempt to improperly use government power and responsibilities to distort the constitutional role of the press.

Finally, the official press spokesman for the White House consistently told the press and the American people versions of Watergate that were not true, when he and those

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[160] Testimony of John Dean, Vol 3, p. 917.

[161] *Id.*

[162] U.S. Const., Amend. I.

[163] Memo from Jeb Magruder to H.R. Haldeman, October 17, 1969.

[164] *Id.*, at 2.

[165] Memo from David Wilson to John Dean, December 1, 1971.

[166] Memo from Jeb Magruder to H.R. Haldeman, October 17, 1969.

[167] Testimony of Senator Lowell Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974, (Ex. 7).

[168] "The point behind this whole thing is that we don't care about Huntley—he is going to leave anyway. What we are trying to do here is tear down the institution. Huntley will go out in a blaze of glory and we should attempt to pop his bubble." Memo from L. Higby to Jeb Magruder, July 16, 1970.

[169] Memo from Charles Colson to H.R. Haldeman, Sept. 25, 1970.

[170] *Id.*

[171] Testimony of John Dean, Vol. 4, p. 1490.

[172] Testimony of Clark MacGregor, Vol. 12, p. 5019.

[173] Testimony of Howard Hunt, Vol. 9, p. 3673; see also, Executive Session of Howard Hunt, pp. 121-122.

[174] Memo from John Dean to H.R. Haldeman, Vol. 8, p. 3171.

[175] Id., at 3172.

[176] Vol. 10, Ex. 194, p. 4259.

[177] White House memo from Patrick Buchanan to John Ehrlichman, July 8, 1971.

[178] Testimony of Patrick Buchanan, Vol. 10, p. 3921.

[179] Memo to Charles Colson from Thomas Thawley, Deputy Assistant Secretary of Commerce, April 16, 1971.

[180] Memo from Richard Howard to Fred Fielding, May 12, 1972 (this memo had an unusual instruction at the top: "PLEASE BURN BEFORE READING").

[181] Testimony of Howard Hunt, Vol. 9, p. 3672.

who prepared him were in a position to know, or in fact knew, that his statements were untrue. The President himself misled the press in news conferences and official statements, as to the investigation, its results, and the substance of evidence involving himself and the Watergate matter.

The Fourth Amendment fared no better.

It guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ." [182] It was expressly violated by burglaries and warrantless wiretaps.

As an example, this constitutional safeguard was at the center of illegalities contained in the so-called 1970 Intelligence Plan. In a colloquy during the course of this Committee's hearings, the Chairman and Mr. Dean discussed the elements of that Intelligence Plan. It was described as recommending 1) techniques for removing limitations on electronic surveillance and penetration, 2) the use of mail coverage, 3) a technique designated as surreptitious entry, 4) development of campus sources of information, and 5) the use of military undercover agents. The Chairman rightly noted, and the witness concurred, that resort to burglary, electronic surveillance and penetration without a court order is a clear violation of the Fourth Amendment.[183]

Nevertheless, on July 5, 1970, a memo written by Mr. Haldeman indicated that the President of the United States gave his approval to the plan.[184] There is additional evidence that events took place which closely parallel the recommendations in the 1970 plan. In contrast with the evidence that the plan was approved, there is no documentary evidence that the plan was at any time officially withdrawn, although one witness claimed it was.[185]

The instances of burglaries and wiretrapping have been well-documented. They include the break-in at Ellsberg's psychiatrist's office, the possible break-in at publisher Hank Greenspun's office, the four attempts and two successful break-ins at the Democratic National Committee headquarters, the plans to break-in at McGovern's campaign headquarters, proposed penetrations of the Potomac Associates and The Brookings Institute, questionable wiretaps of newsmen and government officials, wiretaps of Spencer Oliver, Lawrence O'Brien, and columnist Joseph Kraft. This disregard for the Fourth Amendment proceeded in spite of apparently severe warnings and objections by one of the most experienced figures in law enforcement in this nation's history, J. Edgar Hoover.[186]

The Fifth Amendment was likewise violated. However, it is more appropriately discussed along with the Fourteenth Amendment in the next section examining Due Process of Law.

The Sixth Amendment guarantees the right to a speedy trial, the right to the evidence of witnesses, and the right to subpoena evidence from witnesses,[187] an important principle in our system of justice.

While it may be temporarily obscured by the plight of high officials in Watergate, history will record that seven men were brought to trial in 1973 for the Watergate break-in. Six of those men spent considerable time in jail. To date no persons have paid a higher price for Watergate, through the justice system. When history judges our system of laws, the fairness of the trial those men went through will be at the fore.

Viewed in that light, the so-called coverup takes on somewhat different significance. It was nothing less than a massive interference with the constitutional right of seven American citizens to a fair trial. They were categorically denied the testimony of witnesses who possessed evidence that was critical to their defense. Perjury was planned and orchestrated from within the White House itself. Evidence was destroyed. Key witnesses were excused from giving testimony before the grand jury, avoiding their constitutional duty. A speedy trial was opposed, not because it would result in greater justice, but because it served the political ends of the White House. Even the defendants themselves were paid to not give testimony, thereby denying any hope to at least one of them who might have preferred a fair trial. Offers of clemency, family support, and rehabilitation were used for the same purpose.[188]

In an opposite sense, the Sixth Amendment's guarantees of a witness' testimony were again subverted when counterlawsuits were undertaken against Democratic officials partly to use the power of taking witnesses' depositions, to get at embarassing information.[189] Here the tactic was to put political opponents under oath and use the circumstance and power to elicit confidential information. Those who denied witnesses to their own, could not apparently resist enforcing and invoking the Sixth Amendment's guarantees when it came to their opponents.

D. DUE PROCESS OF LAW

The concept of due process put simply means the right to fair and just treatment under the law.

It is rooted in Chapter 39 of the Magna Carta, in which King John declared that "no free man shall be taken or imprisoned . . . except by the lawful judgement of his peers or by the law of the land." [190]

Recent Supreme Court cases have described due process, which is guaranteed by the Fifth and Fourteenth Amendments, as embodying "a system of rights based on moral principles so deeply imbedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history." [191]

Due process has been even more succinctly described by the Supreme Court as "that which comports with the deepest notions of what is fair and right and just." [192] It is the backbone of justice in America, and it was dramatically missing in the evidence of not only the Watergate criminal proceedings, but in the Ellsberg case and countless other cases with political overtones in the period directly leading to Watergate.

The particular phraseology associated with due process has been generally used in close association with precise safeguards of accused persons. Nevertheless, it is equally a restraint on action by the government that unfairly discriminates against our citizens or the exercise of their rights. Those two guarantees have often been called procedural and substantive due process. Both were violated by the events leading to and including Watergate.

The obvious example of procedural abuses were the trials. In the Ellsberg case, information for use against the defendant was sought by means of a warrantless break-in, an act that eventually contributed to that case being dismissed. In addition, the presiding judge in that case was offered an attractive job, as FBI Director, in the midst of the trial.[193] The offer came from Mr. Ehrlichman, who was responsible for supervision of the so-called Plumbers, at a time when Ehrlichman knew about the break-in by the Plumbers, and presumably knew of its potential consequences. Dr. Ellsberg's right to a fair trial was also jeopardized by tactics that attempted to destroy his public image, discredit his associates, and attack publishers who printed the Pentagon Papers. One of the President's closest advisors has been sentenced to one to three years in jail for that tactic.

The direct interference with a fair trial for the Watergate defendants has already been documented. In addition, those defendants were subjected to prejudicial public statements that they were "third rate burglars," "blackmailers," and even "double agents." The important point is that the accusations came from the White House, and that the White House was in a position to remove those labels by following its legal duty of providing all relevant evidence.

Perhaps of even greater significance is the vast number of cases involving those accused of conspiracies against the United States. The improper use of wiretaps, agent provocateurs, and informers resulted in the dismissal of most of those cases.[194] While this was not directly a focus of the Watergate investigation, it became relevant in examining the climate and attitudes that led to the Watergate plan.

Criminal cases were not the only instances of due process violations. The "fair and right and just" application of our laws suffered when anti-trust actions were generated on the basis of political considerations, when income tax audits were ordered because a newsman wrote an article the White House did not like, when an enemies list was complied so that the laws could be applied more strictly or to the disadvantage of opponents, when White House staff members had access to FBI files pertaining to their own investigation, when they were given special treatment before a grand jury, when the intelligence gathered by the various agencies of our government was collected,

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[182] U.S. Const., Amend IV.

[183] Vol. IV., p. 1455.

[184] Memo to Mr. Huston from H.R. Haldeman, July 14, 1970, Vol. 3, Ex. 36, p. 1324; Presidential Statement, May 22, 1973.

[185] Mr. Haldeman testified that the President approved the Huston plan, and that it was rescinded five days later with notification of the agency heads. Testimony of H.R. Haldeman, Vol. 8, p. 3030.

[186] Testimony of H.R. Haldeman, Vol. 7, p. 2874. Mitchell also expressed his disapproval of the 1970 Domestic Intelligence Plan to Mr. Hoover and Mr. DeLoach of the FBI and he "talked to both Mr. Haldeman and the President about the subject matter." Testimony of John Mitchell, Vol. 4, p. 1604.

[187] U.S. Const., Amend. VI.

[188] Testimony of James McCord, Vol. 1, p. 131.

[189] Dean testified that the counter suits against the Democrats in the fall of 1972 demonstrate "the willingness to commence counteractions to avoid further prying into the situation at the White House." Testimony of John Dean, Vol. 4, p. 1473.

[190] Text and commentary on this chapter may be found in W. McKechinie, *Magna Carta—A Commentary on the Greater Charter of King John* (Glasgow: 1914).

[191] Solesbee v. Balkcom, 339 U.S. 9, 16 (1950).

[192] Id.

[193] Testimony of John Ehrlichman, Vol. 6, pp. 2617-2619.

[194] In the White Panthers case, it was illegal wiretaps. In the Camden 28 case, it was the use of an agent provocateur; and in the 11 gambling, narcotics, and bribery cases in Miami it was illegal wiretaps.

evaluated, and distributed in apparent violation of the agency statutes, when the military was used to spy on American citizens working for the Democratic Party.[195] All of this violated the Fifth Amendment and, in some cases, the Fourteenth Amendment. In the process, Watergate and its predecessor activities violated one of the broadest principles of our system of laws, a concept so fundamental that it is the basis of fully one quarter of all litigation that comes before the Supreme Court of the land.

This is apparently what happens when the witness who was the Attorney General during most of that period can be asked whether he "exaulted the political fortunes of the President before the President's responsibility to perform his constitutional duties to see that the laws are faithfuly executed," and he responds, "I think that is a reasonable interpretation." [196]

II. THE GOVERNMENT

One of the significant patterns of evidence that emerged from this Committee's investigation relates to the operation of government.

In the climate of Watergate there is a tendency to dismiss any thing short of crimes. But there is great value to the facts that follow, not because they contain sensational crimes, but because they confirm a misue of the intended functions of important institutions. It reflects a departure from legitimate government that if allowed to persist would be of far greater significance, over time, than any short-term criminal event.

A. THE INTELLIGENCE COMMUNITY

The attitudes and policies that led to Watergate had a profound impact on the intelligence community, from the FBI and the CIA to the lesser intelligence sections of other agencies.

Soon after the new administration took office in 1968, there seems to have been a basic dissatisfaction within the White House as to our existing intelligence capabilities. They were variously considered too timid, too bound by tradition, and generally incapable of acting effectively with respect to what the White House perceived as necessary intelligence.

One of the responses by the White House was to set up a plan, an intelligence plan, so that the objectives, methods, and results of the intelligence community would coincide with the White House. This plan was drafted by Tom Charles Huston in early 1970,[197] and came to be known as the 1970 Domestic Intelligence Plan, or the Huston Plan.

Much of the plan, which has been described previously,[198] was illegal, either in its objectives or in the methods it proposed. Nevertheless, there are numerous indications, in evidence received by this Committee, that the types of activities recommended in the plan were carried out in the following years. The net effect was to subvert or distort the legitimate intelligence functions of the government.

The plan recommended an expanded use of electronic surveillance. However, the expanded wiretapping that took place in succeeding years was done outside legitimate channels, such as the 17 so-called Kissinger taps,[199] the tap on Joseph Kraft,[200] the Watergate wiretaps, and even the wiretap on the President's bother.[201]

The second element of the plan called for surreptitious entries. Burglaries in fact took place at the office of Dr. Ellsberg's psychiatrist,[202] at the Democratic National Committee, at the office of publisher Hank Greenspun, according to multiple evidence;[203] were suggested or planned for the offices of the Potomac Associates, The Brookings Institute,[205] and Senator McGovern's campaign headquarters.[206]

Mail sent to an affiliate of the Democratic party was opened and photographed by the United States Army, in a well-documented and apparently massive operation,[207] and military agents spied on the Concerned Americans in Berlin, a group of McGovern supporters who were officially recognized by the Democratic party.[208]

The specific actions proposed by Huston are only one aspect of the plan. Equally important are the policy recommendations. The heart of this new policy was better coordination and use of existing intelligence from all areas of the government.[209] The means of carrying it out was to be a new intelligence "Committee" sitting above all the agencies. Again, the plan was carried out.

On September 17, 1970, an Intelligence Evaluation Committee was set up in the White House.[210] It was to receive information from the CIA, the FBI, the National Security Agency, and other intelligence sections. Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, it was called upon to evaluate domestic intelligence-gathering by the other agencies when the Intelligence Evaluation Committee was set up. This intelligence was to be digested by the CIA experts and then disseminated for use wherever useful, regardless of the statutory limits placed on the agency that collected the information.[211]

What was important about setting up that Committee was not the work it actually did, but rather the legitimization of a concept. That concept was that intelligence functions of the various agencies were there for whatever purpose the Executive decided it wanted, not for the purposes Congress decided by statute.

As an illustration, Mr. McCord testified that he eventually received information for use by CRP from the Internal Security Division of the Justice Department, on a daily basis.[212] It included information from the FBI, pertained to individuals, and was of a political as well as non-political nature.[213] This arrangement was made pursuant to a request sent to Mr. Mitchell from Mr. McCord, which led to a call from Assistant Attorney General Mardian in which he relayed the Attorney General's approval and told McCord to work through the Internal Security Division.[214]

The Internal Security Division of the Justice Department also provided political legal assistance to the White House. For example, it provided information regarding demonstrators, and information that would embarrass individuals in connection with their relationship with demonstrators and demonstration leaders.[215]

Another illustration of misuse of intelligence was the request made to the IRS, on July 1, 1969, by Mr. Huston, to set up a means of "reviewing the operations of Ideological Organizations." [216] Soon the IRS had set up an "Activists Organizations Committee," [217] collecting intelligence to "find out generally about the funds of these organizations." An internal memo pointed out that "its activities should be disclosed generally only to those persons who need to know, because of its semi-secretive nature." "We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the Administration." "The type of organization in which we are interested may be ideological . . . or other." "In effect, what we will attempt to do is to gather intelligence data on the organizations in which we are interested and to use a Strike Force concept." [218] This was not tax collection; it was the IRS being converted into an intelligence agency; and it was stopped in the midst of this Committee's hearings in mid-1973.

The next step was when the IRS began gathering intelligence from other parts of the government, with no attempt made to restrict this to tax-related information. Arrangements were made with the military, the Internal Security Division of the Justice

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[195] See, General Powers and Duties, notes 10-94 supra. and accompanying text; see also, testimony of Senator Lowell Weicker, Jr., hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974.

[196] Testimony of John Mitchell. Vol. 5, p. 1895.

[197] According to Mr. Haldeman, "the President set up an interagency committee consisting of the Directors of the FBI, the CIA, the Defense Intelligence Agency and the National Security Agency," and "Mr. Huston, the White House staff man for this project, was notified by a memorandum from me of the approval of the President." Testimony of H.R. Haldeman, Vol. 7, 2875.

[198] See, notes 183-186.

[199] Testimony of Robert Mardian, Vol. 4, pp. 2392-2393; John Ehrlichman, Vol. 4, p. 2529; and John Dean, Vol. 3, p. 920

[200] Testimony of John Dean, Vol. 3, p. 919. In June, 1969, Ehrlichman directed Caulfield in lieu of the FBI to place a national security tap on Kraft's home phone. Caulfield contacted Jack Regan, former FBI agent, who ultimately installed the tap. Executive Session of John Caulfield, March 23, 1974.

[201] Presidential Press Conference, November 17, 1973.

[202] Testimony of Howard Hunt, Vol. 9, p. 3663.

[203] Testimony of Howard Hunt, Vol. 9, p. 3687. See Transcripts of Presidential Conversations, Sept. 15, 1972.

[204] White House memo, July 6, 1971, from John Caulfield to John Dean, stating in part, "a penetration is deemed possible if required."

[205] Testimony of John Dean Vol. 3, p. 920; Executive Session of John Caulfield, March 23, 1974.

[206] Testimony of Howard Hunt, Vol. 9, p. 3686.

[207] See, testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping an Electronic Surveillance, relating to intelligence activities of the United States military directed against "The Concerned Americans in Berlin," an affiliate of the American Democratic party (Exhibit 8).

[208] Id.

[209] This was the final section of the 1970 Domestic Intelligence Plan, entitled "Measures to Improve Domestic Intelligence Operations." Vol. 3, Ex. 35, p. 1323. See testimony of John Dean, Vol. 4, p. 1457.

[210] The memo to the Attorney General describing the setting up of the IEC was quoted in full in the text of the hearings. Vol. 3, p. 1063.

[211] Testimony of John Dean, Vol. 3, p. 916-919, 1057-1074, and Vol. 4, p. 1457.

[212] McCord received information, including FBI data, from the Internal Security Division of the Justice Department, upon his request to Attorney General Mitchell. Mitchell told Mardian to direct McCord to I.S.D., where McCord's contact was John Martin, Chief of the Evaluation Section. Testimony of James McCord, Vol. 1, p. 178.

[213] Id., at 181.

[214] Id., at 178.

[215] Testimony of John Dean, Vol. 3, pp. 916-919.

[216] Memo from Tom Huston to Roger Barth, Asst. Commissioner of IRS, August 14, 1970.

[217] See testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974 (Exhibit 1, memo by D. O. Virdin of the IRS; report of meeting to set up an "Activists Organizations Committee").

[218] Id.

Department, and the Secret Service to turn over information on individuals or groups.[219] So long as the IRS has the power to be a potential harassment for the average citizen if audits are not conducted on an objective basis, this procedure of developing files on dissenting citizens must be questioned. The more important point is that IRS duties and responsibilities are spelled out by the Congress, and such an intelligence operation is not one of them.

The IRS and the Justice Department were not the only agencies pressured into assisting White House intelligence demands. A Secret Service agent spied on Senator McGovern,[220] when supposedly protecting him during the campaign. When the White House was informed of this, no objection was made.

An FBI agent was used by a White House staff member to spy on a Long Island newspaper doing an article on one of the President's friends.[221] The Commerce Department was called on to provide commercial information in a project that it was hoped would embarrass Senator Muskie.[222] The Department of Defense was used to find out information as to Senator McGovern's war records, at a time when there were public charges that he may have acted with cowardice.

There was testimony to the effect that there was nothing short of a basic policy to use any governmental agencies to seek politically embarrasing information on individuals who were thought to be enemies of the White House. The so-called "enemies list" was maintained in the White House for this purpose, and a memo was prepared to implement a means of attacking these enemies.[223]

Apparently it was not enough to maneuver the intelligence community and related agency functions. Plans were made to take what is clearly a function of government outside the government, to set up an independent intelligence operation.

The first plan was put forth by Mr. Caulfield, in proposals to Messrs. Dean, Mitchell and Ehrlichman. He suggested a private security entity that would be available for White House special projects, thereby insulating the White House form its deeds. It was called Operation Sandwedge.[224]

Mr. Caulfield rejected the Sandwedge plan, and it was apparently replaced with an operation that came to be known as the "Plumbers." In the meantime, Caulfield began conducting intelligence functions from a position on the White House counsel's staff, functions that properly belonged in the agencies, if anywhere.

Caulfield was instructed, for example, to develop political intelligence on Senator KENNEDY, including instructions from the Assistant Attorney General to obtain certain information about the travels of Mary Jo Kopechne.[225] When he took the job, he told Mr. Ehrlichman that he would hire an ex-New York City policeman to do investigative work.[226]

Mr. Ulasewicz was then used to collect information on various enemies, political, ideological, and personal. A sample of his activities reveals not only why intelligence should not be outside the checks of a professional organization, but also the rather broad scope of what the White House was in fact doing. His investigations included such things as Richard Nixon's old apartment in New York, a Kennedy official trip to Hawaii, name checks on White House visitors, the President's brother, political contributors to a dozen Senators who opposed the administration, Jefferson Hospital in Philadelphia, Louis Harris Polls, the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, a comedian named Dixon, Mrs. Rose Kennedy's secretary, and Birmingham, Alabama City Council, Mayor, and Executive Staff.[227] And that is just a sample of the much larger number of his investigations. Many of them are clearly the responsibility of established agencies, if they are anybody's responsibility at all.

Eventually, a semi-official unit, the Plumbers, was established within the White House, with a combination of police and intelligence duties. It conducted what Mr. Mitchell referred to in his testimony as the "White House horrors."[228] According to Mitchell, these operations were so wrong that if the President had heard about them he would have "lowered the Boom", even though there is other evidence that the President did know about them and didn't lower any boom.[229]

The legitimate intelligence agencies were used to support this operation, specifically by providing materials for their operations. General Cushman of the CIA testified that after a personal request from Mr. Ehrlichman, CIA technical services people provided Mr. Hunt with a drivers license, social security card, wig, and speech altering device, which were delivered to a "safe house" off CIA premises per Hunt's instructions.[230]

Around August, 1971, Hunt began to make additional demands on the CIA: first, for a stenographer to be brought in from Paris, which Cushman and Director Helms considered merely a face-saving move and rejected. Later demands were made for a tape recorder in a typewriter case, a camera in a tobacco pouch, for film development, and for an additional alias and false papers for another man ("probably Liddy"), which requests came to Cushman's attention after they had been granted by the technical services people.[231]

After Hunt's additional demands and a subsequent request for a New York address and phone services, Cushman and Helms decided Hunt's requests had exceeded his original authority. On August 31, 1971, Hunt made a final request, for a credit card, which was denied.[232]

Mr. Young of the Plumbers unit asked the CIA to do a psychological profile of Dr. Ellsberg. It was clearly a domestic project, the only one of its type ever requested, according to Gen. Cushman of the CIA, who also testified that such profiles are reserved for foreign leaders. Nevertheless, it was done, but Mr. Young considered it unsatisfactory, so another profile was prepared and sent.[233] Other projects spanned a broad range, such as spiriting Dita Beard from the East Coast to a Denver hospital, and a subsequent trip to Denver by Hunt in disguise to question her about the ITT affair.[234] To bring the full influence of the White House to bear on this extraordinary activity, Mr. Ehrlichman testified that he personally introduced Messrs. Krough and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.[235]

Members of the Plumbers eventually went on to similar work for the Committee to Re-Elect. Although they were clearly outside the government, they again used the legitimate agencies. Ex-CIA employees were recruited on the basis of their loyalty to the CIA. National security responsibilities were misused. Mr. Barker was even told that the interests of national security he was serving

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[219] For example, on December 4, 1969, D.W. Bacon, Asst. Commissioner, IRS, contacted Colonel Heston C. Cole, Counterintelligence Division, Directorate Office of Special Investigations; and on January 26, 1970 the IRS contacted Director Rowely of the Secret Service, in both cases to coordinate intelligence-gathering operations through the Activists Organizations Committee. See, testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974.

[220] White House memo from Steve Karalekas to Charles Colson, August 16, 1972, referring to the activities of Agent Bolton. See also, testimony of John Dean, Vol. 3, pp. 923, 1071.

[221] John Caulfield testified that he requested a New York City FBI agent to go out to the *Newsday* offices. This was done, and included a report of the newspaper's confidential publication schedule. Executive Session of John Caulfield, March 23, 1974.

[222] Memo to Charles Colson from Thomas Thawley, Deputy Asst. Secretary of Commerce, April 16, 1971.

[223] White House memo from John Dean, August 16, 1971, entitled "Dealing Without Political Enemies." Vol. 4, Ex. 48, p. 1689.

[224] Drafted in late summer 1971, Operation Sandwedge called for an offensive intelligence-gathering operation for infiltration of campaign organizations and headquarters with "undercover personnel, surveillance of Democratic conventions and meetings, derogatory information-seeking investigations, and "black bag" activities. Though dropped from active consideration by late 1971, Operation Sandwedge can be seen as a precursor of the Gemstone Plan which achieved the capabilities championed by Caulfield. See, Caulfield Executive Session, March 23, 1974; See also, Campaign Practices Section of Select Committee Report, exhibit of memorandum of Caulfield to Dean entitled "Operation Sandwedge." See also, Vol. 2, p. 786; Vol. 3, pp. 924–6; Vol. 6, p. 2537.

[225] In the summer of 1969, when Dean was working at the Justice Department, "then Deputy Attorney General Kleindienst called (Dean) into his office and told (him) that the White House wanted some very important information . . . regarding the foreign travels of Mary Jo Kopechne." Dean was directed to obtain the information from Mr. De Loach, Deputy Director of the FBI, and give it to John Caulfield from the White House. Vol. 3, p. 922.

[226] Ehrlichman apppointed Caulfield to the White House staff on April 8, 1969, as a liaison with various law enforcement agencies, with the understanding that the services of Mr. Ulasewicz, a retiring New York detective, would be obtained. Commending July, 1969, Ulasewicz reported on his investigatory activities to the White House through Caulfield, on the orders of Mr. Ehrlichman and Mr. Dean. Vol. 1, p. 251.

[227] See, Committee interviews with Mr. Ulasewicz, Mr. Dean, Mr. Caulfield, Anne Dawson, Tony LaRocco.

[228] Mr. Mitchell described the Plumbers' activities which he learned of from Mr. Mardian and Mr. LaRue, as the "White House horror stories." Vol. 4, pp. 1624–25.

[229] On March 22, 1973, the day after Mr. Dean told the President of the Watergate-related White House horrors and other facts, the President, according to Mitchell, discussed the possibility of using Dean as a liaison with the Ervin Committee, rather than lowering any boom. Vol. 5, p. 1894.

[230] Vol. 8, pp. 3292–93.

[231] Id.

[232] Id.

[233] Id., at p. 3311.

[234] Shortly after the ITT memo was published in February, 1972, Mr. Liddy transported Dita Beard from Washington to a hospital in Denver. In his interview there, Mr. Hunt elicited from Dita Beard a public statement that the memo was a fraud. Testimony of Robert Mardian, Vol. 6, p. 2359; Howard Hunt, Vol. 9, pp. 3752–53.

[235] Mr. Ehrlichman testifies further that Mr. Krough and Mr. Young described the function of the special unit" (the Plumbers) to the heads of the various agencies. Vol 7, p. 2691.

were above the FBI and the CIA.[236] To reinforce this position, classified and critical information about the mining of Haiphong harbor was relayed to Barker the day before the President's announcement.[237] This was not only a misuse of secret Defense Department intelligence, but it also furthered a misuse of national security entrustment in the executive branch.

In a different type of situation, Mr. Haldeman was appointed "the Lord High Executioner of leaks". This technique of attacking and solving the leaks problem illustrates the contempt for normal government functions. It resulted in Mr. Caulfield, by his own testimony, being directed by Ehrlichman to wiretap a newsman's telephone (Joseph Kraft) in pursuit of a leak,[238] outside the safeguards of government wiretap procedures and regulations. There are capabilities within the legitimate operations of our government for handling such a problem. The attitude that these problems had to be treated independently was the same attitude that led to the 17 Kissinger taps being installed outside normal FBI channels and Mardian's instructions from the President regarding the disposition of those wiretap logs "that related to newsmen and White House staff suspected of leaking,[239] and that led to unusual and perhaps illegal White House involvement in the Ellsberg case itself.

There is a reason for demanding that government officials use only the tested and accountable facilities of government. It has been illustrated by the kind of projects undertaken independently by the White House.

The final contempt for the intelligence community can be seen in efforts to exploit them in the coverup. Mr. Ehrlichman said that he and Mr. Haldeman had spoken to General Walters and Mr. Helms of the CIA shortly after the Watergate break-in.[240] Ehrlichman further said that Walters was a friend of the White House and was there to give the White House influence over the CIA.[241] Dean testified that Ehrlichman asked him to explore the possible use of the CIA with regard to assisting the Watergate burglars.[242]

On June 23, 1972, Mr. Haldeman and Mr. Ehrlichman met with Director Helms and General Cushman of the CIA. According to Director Helms, Haldeman said something to the effect that it had been decided that General Walters was to go talk to FBI Director Gray and inform him that "these investigations of the FBI might run into CIA operations in Mexico" and that it might be best if they were tapered off—or something like that.[243] According to General Walters, Haldeman directed Helms to inhibit the FBI investigation on grounds that it would uncover CIA assets in Mexico. Haldeman also indicated he had information the CIA did not have, and that five suspects were sufficient.[244] When Director Helms and Director Gray of the FBI scheduled a meeting between themselves on June 28, 1972, Mr. Ehrlichman intervened and canceled the meeting, thus preventing any independent contacts.

At a later time, Mr. Dean discussed with General Walters the possibility of using covert CIA funds to pay the Watergate defendants.[245] In February 1973, the CIA was asked by the White House to take custody of Justice Department files on Watergate, but the request was denied.[246]

Mr. McCord testified that at the time of the Watergate trial, pressure was brought on himself and other defendants to claim for purposes of a defense that Watergate was a CIA operation.[247]

The FBI was likewise abused in numerous ways. Some of these, such as turning over Hunt's files to Mr. Gray, have been well documented. But there were other examples. The FBI set up the so-called Kissinger wiretaps outside channels, effectively insulating them from routine discovery and accountability, and at the President's instructions, Mr. William Sullivan (who had supervised the wiretaps) turned over all evidence of them to the White House when it was reportedly related to the President that Hoover might use them to preserve his job.[248] The FBI ran an investigation of CBS newsman Daniel Schorr, in what was a White House tactic to embarass him, according to one witness.[249]

Mr. Ehrlichman testified that he was instructed after the Watergate break-in to see to it that the FBI investigation did not uncover the Ellsberg break-in or get into the Pentagon Papers episode.[250]

In the end, the wake of Watergate left a distorted intelligence community whose historic professionalism had been badly damaged.

B. LAW ENFORCEMENT AGENCIES

The primary responsibility for law enforcement falls to the Department of Justice. To the extent that White House or political considerations interfered with that responsibility, it interfered with a critical part of our government.

There was considerable evidence of White House contacts, including pressure and interference, with respect to the Watergate investigation. It began almost immediately after the break-in, with a request to the Attorney General that he try to obtain the release of Mr. McCord.[251] In the following days, he was warned about a too aggressive investigation, he was warned in mid-1972 that Magruder might have to plead the Fifth Amendment, he was asked to provide raw FBI files on the case, and he was asked to be the White House secret contact with this Committee.[252] As noted earlier, an agency of the Justice Department, the FBI, was consciously lied to, was asked for raw files, its Director was given potentially embarrassing evidence from the safe of one of the Watergate burglars, with instructions he interpreted as a request to destroy that evidence.

The White House counsel testified that he in fact received information from the Justice Department and the FBI on the Watergate case. Mr. Dean stated that he was asked by Mr. Mitchell, after Mitchell had left CRP, to get FBI 302 reports of interviews with witnesses, and that Mr. Haldeman and Mr. Ehrlichman also thought it would be a good idea to get those reports. Mr. Mardian, attorneys O'Brien and Parkinson, and Mr. Richard Moore all viewed those files after Dean obtained them. Dean pleaded guilty to an "information" charge in October 1973, which charge included a conspiracy based on White House access to those files.[253]

There were similar pressures as to the whole Ellsberg matter. When Assistant Attorney General Petersen advised the President of the Ellsberg break-in, he was told, "I know about that," and "You stay out of that" [254]

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[236] Testimony of Bernard Barker, Vol 1, p. 360.

[237] Mr. Hunt testified that he was "in very general terms aware of" the President's speech announcing the bombing of Haiphong harbor prior to the speech. Hunt requested that Mr. Barker "attempt to have as many telegrams as possible sent to the White House. . . . manifesting approval of the President's move." Testimony of Howard Hunt, Vol. 9, pp. 3745–46.

[238] See, note 21, supra.

[239] The President instructed Mr. Mardian in the fall of 1971 to transfer the logs from Mr. Sullivan, Assistant Director of the FBI, to Mr. Ehrlichman, who kept them in his safe for over a year. Testimony of John Dean, Vol. 3, pp. 920–21.

[240] Ehrlichman and Haldeman were instructed to insure that covert CIA activities were not exposed by the Watergate investigation being conducted by the FBI. Vol. 6, p. 2557.

[241] On June 26, 1972, Mr. Dean on Mr. Mitchell's suggestion, sought through Mr. Ehrlichman to contact the CIA as to the Watergate break-in. Vol. 3, p. 946.

[242] Mr. Dean indicated to Gen. Walters that witnesses were wobbling and could cause problems, and asked if the CIA could raise bail for some of these defendants. Testimony from John Dean, Vol. 3, p. 1037; Vol. 4, p. 1461.

[243] Testimony of Richard Helms, Vol. 8, p. 3238.

[244] Memorandum of General Walters, Vol. 7, Ex. 101, pp. 2948–49.

[245] Testimony of John Dean. Vol. 3, p. 1037.

[246] On February 9, 1973, Mr. Dean called the new Director of the CIA, Mr. Schlesinger, and suggested that the Justice Department be required to return to the CIA a package of all the materials turned over to Justice regarding Hunt and the break-in at Dr. Fielding's office. Mr. Schlesinger and General Walters decided this was "out of the question". Testimony of General Walters, Vol. 9, pp. 3417–19.

[247] Testimony of James McCord, Vol. 1, pp. 193–98.

[248] In July, 1972, Mr. Sullivan, Associate Director of the FBI, informed Mr. Mardian of the existence of "some very sensitive national security surveillance logs that were not . . . in-channel", that Mr. Hoover might use to preserve his job. Mr. Mardian then flew by courier plane to see the President in San Clemente, who directed him to obtain the reports from Mr. Sullivan and deliver them to Mr. Ehrlichman. Testimony of Robert Mardian, Vol. 6, pp. 2392–93.

[249] Mr. Haldeman requested Mr. Higby to direct the FBI to investigate Daniel Schorr. But "to the dismay of the White House, Mr. Hoover proceeded with a full field wide-open investigation" which became apparent and "put the White House in a rather scambling position to explain what had happended." Ultimately the White House attempted to explain that Mr. Schorr was being considered for a Presidential appointment in the environmental field. Testimony of John Dean, Vol. 3, p. 1071.

[250] Testimony of John Ehrlichman, Vol. 6, p. 2544.

[251] On the suggestion of Messrs. Mitchell, LaRue, and Magruder, then Attorney General Kleindienst was contacted at the Burning Tree Country Club, while playing golf, by Mr. Liddy and Mr. Powell Moore, to "see if there was any possibility that Mr. McCord could be released from jail. The Attorney General rebuffed this request." Testimony of Jeb Magruder Vol. 2, p. 798.

[252] Between July 7 or 8, Ehrlichman called Kleindienst to tell him that Petersen had refused Ehrlichman's order to "not harass" Secretary Stans with respect to interrogations. Kleindienst told Ehrlichman to never again give orders to Justice Department personnel, and if this was the President's desire, then Kleindienst would resign as Attorney General. Testimony of Richard Kleindienst, Vol. 9, pp. 3564–3565. Ehrlichman testified that, based on what Dean had told him about "the unfolding of this thing, that Mr. Magruder may have some involvment and that culminated in a meeting with the Attorney General at the end of July, on July 21 . . ." Testimony of John Ehrlichman, Vol. 6, p. 2554.

[253] U.S. v. Dean, D.D.C. No. 886–73.

[254] Mr. Petersen was so concerned about the President's directive that he consulted Attorney General Kleindienst and both of them considered going to the President and threatening to resign unless the Justice Department was allowed to investigate the Ellsberg matter. Testimony of Henry Petersen, Vol. 9, pp. 3631–2.

The Anti-trust Division of the Justice Department received requests, which have been reviewed earlier as to the media, to go after targets of White House dislike.

After the association of milk producers pledged $2 million to the President's campaign, a grand jury investigation of their association was halted by the Attorney General.[255] Nevertheless, anti-trust violations were allowed to be pursued as a civil, as opposed to criminal, suit.[256] The anti-trust suit was in fact brought in February, 1972, in spite of much White House concern by Messrs. Colson and Haldeman.[257] The milk producers discussed their anti-trust suit with Treasury Secretary Connally in March, 1972, resulting in a call to the Attorney General.[258] Other contacts with the Attorney General were made on behalf of the milk producers, and an attempt was made to give additional contributions in return for dropping the anti-trust suit.[259]

A similar pattern of efforts to obtain favorable treatment from the Attorney General in an anti-trust matter followed the transfer of $100,000 by the Hughes Tool Co. to a friend of the President. The Hughes Corporation was involved in anti-trust problems related to pending purchases of a hotel in Las Vegas and an airline corporation.[260] At the time the money was being transferred, a representative of the Corporation met with the Attorney General. The anti-trust problems were subsequently resolved.[261]

The grand jury system, an essential element of the prosecution process, was subverted by members of the administration and CRP, even to the point of special favors for such officials when they were to be called before the grand jury. According to one witness, Mr. Ehrlichman attempted to prevent former Commerce Secretary Stans from appearing before the Watergate grand jury by directing Assistant Attorney General Petersen not to call Stans. Stans' testimony was eventually taken in private, as was the testimony of Messrs. Colson, Kehrli, and Young.[262]

It should be recalled that the Attorney General doubled as a campaign manager from July 1971, until he resigned in April 1972. When asked if it wasn't improper "for the chief law enforcement officer of the United States to be engaging in, directly or indirectly, managing political activities," the Attorney General responded, "I do, Senator," [263] He held this dual role while a number of large campaign contributors, such as the association of milk producers, the Hughes Tool Co., and International Telephone and Telegraph had important cases under investigation by the Justice Department. The Attorney General who succeeded him pleaded guilty to a charge pertaining to the ITT matter.[264]

The prestige of the Attorney General's office was misused. Mr. McCord testified that a very important reason for his participation in the Watergate operation was "the fact that the Attorney General himself, Mr. John Mitchell, at his office had considered and approved the plan, according to Mr. Liddy." [265] Mr. Baldwin was told that if at any time he had trouble establishing his authority for being in a certain place or for having a weapon, he was to mention John Mitchell.[266] In an outrageous insult to our law enforcement institutions, it was in the Attorney General's office on January 27, 1972, and on February 4, 1972, that Liddy's plan was presented, including expensive charts outlining mugging, bugging, burglary, kidnapping, and prostitution.

The Justice Department was not alone.

Some of the most blatant attempts to pressure an agency charged with enforcing laws were aimed at the IRS. The conversation between the President and Messrs. Dean and Haldeman on September 15, 1972, states this clearly, criticizing the IRS for not being sufficiently "responsive" to personal and political demands.[267] It is buttressed with evidence that the IRS was contacted in relation to cases involving friends of the White House.[268]

The confidential tax return information of Mr. Harold J. Gibbons, vice president of the Teamsters, was turned over to Mr. Colson. It is significant that the memo discussing Gibbons' taxes points out that he supported Senator McGovern; [269] in fact, he was the only major Teamster official to support McGovern, and the only one whose taxes were apparently sent to the White House.

The tax data for a prominent Jewish leader in Rhode Island was given to Mr. Dean's office, along with confidential tax return information on a number of prominent entertainers. Tax audits of Democratic party Chairman Lawrence O'Brien were sought in an attempt to come up with damaging information. In contrast, IRS contacts were used to help in audits of the President's friends, including actor John Wayne, the Reverend Billy Graham, and Mr. Charles G. Rebozo.[270]

A close friend of the President's, according to Mr. Dean, "thought he was being harassed by the agents of the Internal Revenue Service". Dean raised this with Mr. Walters (Commissioner of the IRS) who said that could not be the case. Dean kept checking the status of the case, because he "got questions on it with considerable regularity." Dean stated that "it was Rosemary Woods who kept asking me the status of the case because this individual was seeing the President a good deal." The case was referred to the Criminal Division of the Justice Department. Dean was told he had to do something about it, so he eventually saw Mr. Ralph Erickson at the Justice Department, who said "there is one more thing we can do; there are some weaknesses in the investigation and we may send it back to the Internal Revenue Service for one last look to see if this follows, it really is a solid case," which to Dean's recollection was done.[271]

Nevertheless, the President was not satisfied and suggested that changes be made at the IRS after the 1972 election. In addition, Mr. Dean prepared a briefing paper for Mr. Haldeman with respect to a meeting with the head of the IRS, to make the IRS more responsive to the White House.[272] Mr. Strachan testified that Mr. Haldeman discussed a more politically responsive commissioner of the IRS so that it could be used against political opponents such as Clark Clifford.[273]

The IRS was not only contacted with respect to individual cases, it was also the focal point of certain questionable policies. One of these policies was to "punish" groups, tax exempt groups in particular, who were thought to hold ideological views different from the White House. There was no evidence that these organizations advocated or did anything illegal or unconstitutional, or that they in any way violated the

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[255] See Affidavit of Bruce Wilson to the Senate Select Committee on Presidential Campaign Activities.

[256] See Letter from Richard W. McLaren to David M. Dorsen, Assistant Chief Counsel, Senate Select Committee on Presidential Campaign Activities, dated May 10, 1974.

[257] See the Milk Fund Investigation, Part VI, Milk Producer Contribution Activity in 1972 prior to April 7—and the Justice Department anti-trust suit against A.M.P.I., (supra.) particularly Strachan Exhibits 7-10.

[258] Id., Part VI (D) (2).

[259] Id., Part VI (E) (1, 2).

[260] See, Hughes-Rebozo Report, Dunes Hotel case, of the Senate Select Committee on Presidential Campaigns (Supra.)

[261] Id.

[262] Mr. DASH. You said you did agree on a concession. Could you tell us where was Mr. Stans interrogated?

Mr. PETERSEN. He was interrogated in my conference room by the prosecutors on the case with a reporter present and no one else.

Mr. DASH. And not before the grand jury?

Mr. PETERSEN. No, sir.

Mr. DASH. Who else, by the way, was given a similar concession during the investigation?

Mr. PETERSEN. Colson, Kehrli, and Young.

[263] Testimony of John Mitchell, Vol. 5, p. 1856.

[264] Former Attorney General Richard Kleindienst pleaded guilty on May 16, 1974, to one count of refusing to testify, a misdemeanor in the ITT case, receiving a suspended sentence of one month in jail and a $100 fine.

[265] Testimony of James McCord, Vol. 1, p. 128.

[266] Mr. Baldwin further testified: "I felt that I was in no position to question John Mitchell;" and Baldwin therefore did not question the legality of his own Watergate-related activities. Testimony of Alfred Baldwin, Vol. 1, p. 409.

[267] Mr. Dean testified that on September 15, 1972, he discussed with the President "using the Internal Revenue Service to audit the returns of people," and that this was in keeping with earlier discussions with Haldeman wherein Dean was requested that "certain individuals have audits commenced on them." Dean replied to the President that the IRS had not been happy with the prior requests and, according to Dean, the President told him to keep a good list, so that "we would take care of these people after the election." Haldeman added "that he had already commenced a project to determine which people in which agencies were responsive and were not responsive to the White House." Testimony of John Dean, Vol. 4, pp. 1480-81.

[268] Mr. Dean testified to several requests made to him to intervene on behalf of "friend" tax reports. One case involved the Justice Department, and two other cases resulted from complaints by John Wayne and Billy Graham, who felt they were being harassed by the IRS. Dean's assistant, Mr. Caulfield, contacted the IRS, which allowed him to see Graham's Sensitive Case Report out of Atlanta and which forced the local agent to justify his audit of Wayne. Testimony of John Dean, Vol. 4, pp. 1530, 1559; Executive Session of John Caulfield, March 23, 1974, pp. 47-48; interview with Mike Acre, September 27, 1973, p. 7.

[269] Mr. Colson's memo not only mentioned "that there are income tax discrepancies involving the returns of Harold J. Gibbons," but was also interested that "if there is an informer's fee, let me know." Vol. 4, Ex. 45, p. 1686. It is worth pointing out that none of the official duties of Mr. Colson at the White House would legally justify him having access to citizens' tax returns, except upon specific request of the President.

[270] Sensitive cases, such as the President's friends, large contributors, or prominent political figures, were sent to the White House. Testimony of John Dean, Vol. 4, p. 1529. Roger Barth, Assistant to the IRS Commissioner, would also call John Ehrlichman directly, and the Secretary of the Treasury would contact the President directly, in the process of bringing Sensitive Case Reports to White House attention. Interview with Roger Barth, July 31, 1973, pp. 7-8.

[271] Vol. 4, pp. 1530, 1539, 1559. This case involved Dr. Kenneth Riland. Dr. Riland was subsequently acquitted of income tax evasion by a federal jury.

[272] One document submitted by Mr. Dean (Exhibit 44) is a briefing paper for H.R. Haldeman for a meeting with the head of the IRS, to make the IRS more responsive to the White House. Vol. 4, p. 1349.

[273] Testimony of Gordon Strachan, Vol. 6, pp. 2486-2487.

tax laws. Nevertheless, they were singled out for challenge as to the tax exempt benefits they enjoyed under the law. Groups enjoying the same benefits who were sympathetic to the administration did not receive the same attack.

Use of the Secret Service to spy on Senator McGovern has already been reviewed.

The misuse of the CIA and the FBI have likewise been examined earlier.

It is quite a record for a "law and order" administration.

C. REGULATORY AGENCIES

The regulatory agencies, as much as any other area of government, fit the references in a White House memo which addressed the general problem of how to use the "incumbency" and power of the White House against opponents, or "how we can use the available federal machinery to screw our political enemies."[274]

We have already reviewed numerous misuses of the IRS against political opponents. We have likewise reviewed evidence of plans to make the IRS more responsive to White House problems and demands.

A prime example of the distortion of regulatory power is contained in the record of the administration's plans to attack the media. The agency at the center of this plan was the FCC.

The Federal Communications Commission licenses radio and television stations, and is thereby in a unique position to hurt the networks or any other organization such as a newspaper that owns a local station. The memos on this subject which have been reviewed previously, were frightening at best. They demonstrate clear contempt for statutory restraints on the power given to the FCC by Congress.

A good sample of the attitude toward agencies is a memo from Mr. Jeb Magruder to Mr. Ken Reitz which notes that ACTION, the agency that coordinates government volunteer programs, "is an agency that we should be able to use politically." The memo recommends a meeting with ACTION's director to discuss how "we used their recruiters (who talked to 450,000 young people last year), advertising program, public relations effort, and public contact people, to sell the President and the accomplishments of the Administration. We should be involved and aware of everything from the scheduled appearances of ACTION's recruiters to the format and content of its advertising."[275]

D. THE DEPARTMENTS

The variety and scope of evidence bearing on the functions of the Departments stretches all the way from fabricating a false historical record of the State Department in the Vietnam war to using the Department of Interior to punish a newscaster.

The State Department incident shows the extremes that were followed to achieve the political ends of the White House. In apparent anticipation that Senator Kennedy would be the opposing nominee for the presidency, an attempt was made to falsify President Kennedy's role in the assassination of President Diem early in the Vietnam war.

The strategy used to implicate President Kennedy in Diem's death was to make up phony telegrams between the White House and South Vietnam during that critical period. One particular telegram indicated that Kennedy did not offer safe refuge to Diem, thereby insuring his assassination. To be able to do this, the State Department was contacted by Mr. Young of the White House Plumbers, resulting in Hunt's authorization to go over and review the appropriate cables between the United States and Saigon. Arrangements were made to "leak" the story to appropriate news persons.[276] When Hunt's safe was opened on June 20, 1972, the bulk of the papers, according to testimony, were classified cables from the State Department relating to the early years of the Vietnam war.[277]

The Department of Commerce was more directly used. The Secretary of Commerce attended meetings on campaign matters and campaign contributions while still in office.[278] In order to put out a story demonstrating that help provided to the Maine sugar beet industry by Senator Muskie was going to cost taxpayers $13 million in defaults by that industry, the Department of Commerce was requested to provide the research material for that story. The correspondence flowed between the White House and Commerce, until the White House feared that their respective roles might be discovered.[279]

Because of a rather hostile comment former newscaster Chet Huntley once made regarding the President, there was an effort to make it as difficult as possible for him to get his Big Sky project in Montana moving. Apparently, Huntley needed assistance from the Interior Department, which was periodically contacted by the White House in this regard. For whatever reason, Huntley eventually agreed to back the President in the 1972 campaign and the attack was called off.[280]

The Department of Agriculture announced, on March 12, 1971, that price supports for milk would not be increased.[281] Board members of the Commodity Credit Corporation, which has responsibility for clearing such a decision, was unanimous in its recommendation not to increase supports.[282]

On March 25, 1971, the President reversed the decision of the Agriculture Department. There is much evidence of White House awareness and attention at that time to a $2 million campaign pledge by the milk producers.

Whether or not the President's decision was the result of a dairy industry bribe, it is important to note that the legitimate functions of the Agriculture Department were circumvented and interfered with. In the reversal process, none of the Assistant Secretaries at Agriculture or their staffs were consulted. These were the professionals who had the expertise, who knew the reasons for the initial decision, who would have to enforce and live with the new decision by the President. Their opinion or expertise as to the President's reversal was never given; it was never solicited, even indirectly.[283]

Instead, at 10:30 a.m. on March 23, 1971, the President met with the milk producers, saying, "I know, too, that you are a group that are politically very conscious. . . . And you are willing to do something about it."[284] After a flurry of meetings between other administration officials and milk producers representatives, the President changed the Department of Agriculture's position on March 25, 1971. Thus, regardless of other issues involved, the acceptable processes of government were evaded for apparently personal and political interests.

A memo was presented which revealed a Cabinet session in which Mr. Fred Malek told the assembled Cabinet members of a plan to make the Departments more "responsive" to the political needs of the administration. It was this program that led to some of the more unique abuses of the Departments and agencies.

It was this program that led to evidence of quid-pro-quos for the contracts from the Department of Health, Education, and Welfare, the Department of Housing and Urban Development, the Department of Labor, the Department of Interior, the Office of Economic Opportunity, the Office of Minority Business Enterprise, the Federal Home Loan Mortgage Association, the General Services Administration, ACTION, and the Veterans' Administration.[285]

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[274] White House memo from John Dean, August 16, 1971, entitled "Dealing with our Political Enemies." Vol. 4, Ex. 48, p. 1689.

[275] Memo from Jeb Magruder to Ken Reitz, Director of Young Voters for the President, November 28, 1971.

[276] Testimony of Howard Hunt, Executive Sessions, July 25, 1973 and Sept. 10, 1973; also Vol. 9, pp. 3672, 3733, 3772, 3780.

[277] Testimony of John Dean, Vol. 3, p. 937.

[278] While still Secretary of Commerce, Mr. Stans met in several instances on campaign-related matters in January and February, 1972. Testimony of Maurice Stans, Vol. 2, pp. 733–4.

[279] See, note 179 supra.

[280] In a memo to Lawrence Higby, on July 16, 1970, Jeb Magruder expressed a need to get some "creative thinking" going on an attack on Huntley for his statements in *Life*. "Huntley will go out in a blaze of glory and we should attempt to pop his bubble." Vol. 10, Ex. 166, p. 4127.

In a memo to H. R. Haldeman, on October 19, 1971, Lyn Nofziger notified Haldeman that "Huntley claims to be a Republican" and would support the Republican Senatorial candidate in Montana. John Whitaker, the White House liaison for the Department of Interior then ordered the Department of Agriculture to quit "dragging its feet on Big Sky." Vol. 4, p. 1703.

[281] On March 12, Department of Agriculture announced Secretary Hardin's decision to maintain price support level at $4.66. Since in 1970 the Secretary granted the largest increase at the beginning of a marketing year, which led to increase in production, Secretary Hardin, after a careful review, felt the retention of price support levels was in the long term best interests of dairy producers. News Release, United States Department of Agriculture, March 12, 1971.

[282] The Division of the Agricultural Stabilization and Conservation Service drafted its recommended decision in the form of a docket. The docket, based on recommendations of economists and superiors, recommended the $4.66 figure and supported it with a four page justification. The docket was then passed up the line before going to the CCC Board of Directors for approval and undergoes "pre-Board clearance" by others in USDA. On March 3, 1971, the Board of Commodity Credit Corporation approved the docket. The recommended decision then went to the Secretary of Agriculture for final action.

[283] Assistant Secretary Palmby stated that he was unaware of any reconsideration of the March 12 decision. Palmby summarized his role by stating: "I was part of the March 12 announcement. I was not part of the later announcement." Interview with Palmby, p. 22. Furthermore, Assistant Secretary Richard Lyng indicated that his first knowledge of the reversal in decision came one hour before the formal announcement.

[284] From, motion for Immediate Production of Records for Which Privilege Has Been Waived, at 2, Nader v. Butz, C.A. 148-72 (D.C.D.C., filed January 11, 1974).

[285] An "Administrative Confidential" memo from Mr. Marumoto, Mr. Malek's Assistant in the responsiveness program, to Rob Davison, also of Mr. Malek's staff, July 19, 1972 (concerning a Washington, D.C., consulting firm under consideration for contracts from DOL and HUD); an "Administrative-Confidential" Weekly Report from Mr. Marumoto to Mr. Colson and Mr. Malek, Vol. 13, Ex. 262-28, p. 5615. (DOL grant applicants who were "unfriendly toward the Administration were being

For example, a June 3, 1971, White House memo noted that the head of the Federal Home Loan Bank Board "has given a great deal of thought to, and designed, a sound economical plan to use federal resources (projects, contracts, etc.) for advantage in 1972."[286]

A June 23, 1971, White House memo recommended that "In addition to designating 'must' grants from pending applications there may be occasions in which political circumstances require a grant be generated for a locality."[287] This, of course, is in direct contravention of equal treatment under the laws that control federal awards, which are supported by taxpayer funds and are to be distributed only on the basis of merit and need, by law.

By March 1972, this program, according to a memo to Mr. Haldeman citing success at the Commerce Department as an example, had "resulted in favorable grant decisions which otherwise would not have been made involving roughly $1 million.[288] It was then recommended that someone was needed to take "the lead in the program to politicize the Departments and Agencies . . . and closely monitor the grantsmanship project to ensure maximum and unrelenting efforts."[289]

A December 23, 1971, memo to Mr. Haldeman noted that "this program, even if done discreetly, will represent a substantial risk. Trying to pressure 'non-political' civil servants to partisanly support the President's re-election would become quickly publicized and undoubtedly backfire. Consequently, the strategy should be to work through the top and medium-level political appointees who exercise control over most of the Departmental decisions and actions."[290]

By June 1972, Mr. Malek reported he had "reviewed the program with each Cabinet Officer (except Rogers) and with the heads of the key Agencies," and "had them name a top official who would be the political contact for this program," as well as "educate loyal appointees . . . thus forming a political network in each Department."[291] Aside from abuse of the laws which authorize federal grants, there are numerous indications that this program violated the Hatch Act.[292] That Act specifically protects against politicizing the government, and makes such efforts criminally illegal. In addition, much of this conduct has involved a conspiracy to defraud the United States, under the criminal laws of Title 18, United States Code, Section 371,[293] as well as criminal violations of at least three sections of the campaign laws.[294]

So much for our independent Departments and Agencies.

The executive department diverted a substantial portion of its payroll, privileges, and power into non-governmental activities. Mr. Frederick Malek, for example, held an official position at the Committee to Re-Elect the President as of June 1972, while on the White House payroll until September 1, 1972.[295] Mr. Gordon Strachan likewise was employed as a liaison to CRP, while being paid as an assistant to the White House Chief of Staff. Political advertising was supervised from the office that was supposed to be White House Chief of Staff.[296] Mr. McCord testified that he took part in Watergate partly because "the top legal officer in the White House" had participated in the decision to undertake the operation.[297]

The prerogatives granted the executive were misused, as has been detailed earlier. The effect is well summed up by Mr. McCord's testimony that he was told the President of the United States was aware of meetings offering him payoffs and clemency, that the results of the meetings would be conveyed to the President, and that at a future meeting there would likely be a personal message from the President himself. This supplemented threats that "the President's ability to govern is at stake," and "the government may fall" if Mr. McCord did not follow the "game plan."[298] Mr. Caulfield confirmed that when he met with Mr. Dean that Dean wanted to transmit the message to McCord that the offer of executive clemency was made with the proper authority, and that he made such representation to McCord.[299]

Not only were the department functions abused, but the executive power of appointing department officials was likewise used. It was Herbert Porter who testified that he reminded the White House of the things he had done in the campaign when they dragged a bit in finding him a new job after the election.[300] It was Jeb Magruder who was awarded with a high ranking job at the Commerce Department for his misdeeds in the re-election campaign.[301]

These examples are minor compared to the general plans that were discussed to restaff the departments after the election to make them more subservient to the White House.[302]

As a final, rather tragic note, this is the White House that used its power over department appointments to nominate Mr. Gray to the FBI Directorship, decided not to support him any longer, and rather than tell him of that fact, decided to let him "hang there, and twist slowly, slowly in the wind.[303]

III. THE POLITICAL SYSTEM

Watergate challenged the very underpinnings of American politics and the American political condition. It happened in the natural clash and confusion of a free and open system of self-government; the same condition that despite its risks and vulnerability has given us many more moments of magnificence.

Nevertheless, whenever the nation approaches a Presidential election year we

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identified); an "Administrative-Confidential" Weekly Report from Mr. Marumoto to Mr. Colson and Mr. Malek, May 5, 1972, Vol. 13, Ex. 262-15, p. 5572 (concerning a $70,000 DOT grant to Joseph Reyes, National Hispanic Finance Committee, authorized by the Finance Committee for the Re-Election of the President; J. A. Reyes Associates also received a $200,000 sole source non-competitive contract from OEO in July 1972); an "Administrative-Confidential" Weekly Report from Mr. Marumoto to Mr. Colson and Mr. Malek, May 19, 1972, Vol. 13, Ex. 262-17, p. 5581 (a $200,000 grant from the Office of Minority Business Enterprise); a "Confidential" memo from Harry Flemming of CRP to Mr. Malek, March 29, 1972 (concerning a Philadelphia Republican ward leader's complaint that his Democratic counterpart was being favored with Fannie Mae mortgage disclosure fees); an affidavit of John Clarke to the Senate Select Committee on Presidential Campaign Activities (indicating the process whereby architectural engineering contract awards by G.S.A. were given political clearance by Mr. Clarke of the White House staff); a memo by Dan Todd, director of the CRP Older Americans Voter Bloc group, entitled "Proposed Communications Support Program For the Older Americans Division Committee for the Re-Election of the President," April 14, 1972 (indicating federal agencies, such as ACTION, should prepare brochures on their senior citizen programs for frequent release during the two months prior to the election); "Final Report" of CRP Veterans Division, from CPP files ("The Campaign staff's effectiveness was significantly enhanced by its close liaison with The Veterans Administration and coordination of campaign activity with the agency.")

[286] A "Confidential—Eyes Only" memo from Mr. Magruder to William Timmons of the White House staff, June 3, 1971 (indicating that Preston Martin, head of the FHLBB, was a "California-Nixon Republican" and "was a little put out that nobody has sought his political advice").

[287] A "Confidential" memo by William Horton of Fred Malek's staff entitled "Communicating Presidential Involvement in Federal Government Programs" (which appears to be a "first draft" of the Responsiveness program).

[288] Apparently the efforts of Mr. Gifford of the White House staff had influenced favorable decisions on a dozen contracts worth $1 million "which otherwise would not have been made"—"politically these actions have been most favorable." An "Extremely Sensitive-Confidential" memo from Mr. Malek to Mr. Haldeman entitled "increasing the Responsiveness of the Executive Branch," March 17, 1972.

[289] A "Confidential" memo from Mr. Malek to Mr. Haldeman entitled "My Role in Support of Re-Election," January 28, 1972.

[290] Mr. Malek sought "to minimize any direct links to the President," and therefore proposed "we stop calling it politicizing the Executive Branch and instead call it something like strengthening the government's responsiveness." A "Confidential" memo from Mr. Malek to Mr. Haldeman entitled "Redirecting the White House staff to support the President's Re-Election," December 23, 1971.

[291] A "Confidential Eyes Only" memo from Mr. Malek to Mr. Haldeman entitled "Responsiveness Program—Progress Report," June 7, 1972.

[292] For example, an unsigned "Confidential memo on CRP stationery addressed to Attorney General Mitchell, concerning "heavy exploitation of the Cabinet Committee on Opportunity for Spanish-Speaking Peoples," vol. 13, Ex. 362-3, p. 5534; a memo from Mr. Marumoto to Mr. Colson and Mr. Malek, April 28, 1972, concerning reorganization of the Cabinet Committee's media section to support the campaign, Vol. 13, Ex. 262-14, p. 5569; Manual for the Surrogate Program Advance School, directed by Brad Porter for "Schedule C" government employees subject to Hatch Act, supra.

[293] *Hammer Schmidt, et al v. United States*, 265 U.S. 182 (1923); also, *Dennis v. United States*, 384 U.S. 855, 861 (1966).

[294] Title 18, sections 595, 600, 602, 603, 607, 611, 1505; see, also, Use of the Incumbency-Responsiveness Program, supra.

[295] Mr. Fred Malek according to Mr. Odle, became head of the citizens division of CPR between March and June 1972, exercising supervisory control, and had an office at CPR, even though he did not leave the White House until September 1, 1972. Testimony of Robert Odle, Vol. 1, pp. 31-32.

[296] Mr. Odle's testimony was that Mr. Strachan (Mr. Haldeman's Assistant) participated rather actively in matters over at the Committee to Re-Elect. Vol. 1, 0. 31.

[297] Testimony of James McCord, Vol. 1, p. 129.

[298] On January 13, 1973, Mr. McCord met Mr. Caulfield and another message was conveyed as to clemency, along with statements that the President's ability to govern was at stake, another Teapot Dome scandal was possible, the government may fall, and everybody else was on the track but McCord, who was not following the "game plan," and who should get "closer to your attorney" and keep silent. Testimony of James McCord, Vol. 1, pp. 139-140.

[299] Testimony of John Caulfield, Vol. 1, p. 266.

[300] See note 132, supra.

[301] See note 131, supra.

[302] A December 23, 1971, "Confidential" memorandum from Malek to Haldeman entitled "Redirecting the White House staff to Support the President's Re-Election."

[303] In a telephone conversation with John Ehrlichman, Mr. Dean made reference to the fact that the President said he was "not sure that Gray's smart enough to run the Bureau." Vol. 7, Ex. 102 p. 2950-51. And yet the President apparently had no qualms about nominating a man not "smart enough to run the Bureau" to be a Permanent Director of the FBI.

have especially good reason to recall our founding fathers' warnings against the "danger of factions." History teaches us that no matter how much a President may insist otherwise, an incumbent begins to measure policy decisions by their effect on his re-election and wieldspower in pursuit of his most advantageous position.

The system is designed to absorb this, but without question there is a line that cannot be crossed if the process is not to be abused.

The best way to observe how this happened to our political system in 1972 is to examine it in three component parts: the political party, the electoral process, and the democratic system.

A. THE POLITICAL PARTY

Political parties in America have their own life and status. They were expressly excluded from our Constitution, yet they have persisted since the nation's first generation.

The party has come to serve as a link between constituencies and men chosen to govern. They serve a valuable function, drawing competitive forces together to seek the reconciliation so essential to intense issues. When the parties do not function well, individual citizens feel a loss of control over politics and government. They find themselves powerless to influence events. Voting seems futile; politics seems pointless. The political process crosses the line . . . and things go badly for America.

By any measure, the process that led to Watergate emasculated important party functions. It began with the decision to take the party's leader, and his re-election, out of the Republican party and into an independent entity, unresponsive to the checks and balances of party politics. From that point on, the Committee to Re-Elect the President was a political disaster.

There was a rationalization of CRP's existance, in some testimony, to the effect that it was needed for the primaries.[304] A number of Republican candidates entered the primaries, and it was considered unfair to use the Republican National Committee on behalf of the President. This theory ignored the President's massive popularity in the party at the time.

The fact is that CRP remained in operation throughout the campaign, long after it would have been proper for the Republican party to take over.

Significantly, all available evidence indicates that the traditional party organizations at the national level, the Republican and Democratic National Committees, did not undertake illegal or improper activities in the 1972 campaign. After 16 months of investigation, the staff of this Committee reported conclusively that there was no evidence of wrongdoing, directly or indirectly, by the Republican National Committee or its Chairman, Senator Robert Dole (R-Kan.) during the 1972 campaigns.

Evidence as to CRP's operation is in direct contrast.

By setting up an exclusive organization, concerned only with the President, the party was excluded from being properly aided by its titular head. The President was well-financed, and he won in a landslide. The Republican candidates for Congress and state offices did not have similar success in financing and campaigning against their Democratic opponents.

A good example of the tactics that hurt the party was the list of 100 Democratic Senators and Congressmen, "primarily from the South, who had supported the President on the crucial votes on the Vietnam war," who would "not receive very strong opposition" from the White House.[305] Clearly this would not have been possible if the party had been involved in the President's campaign.

Not only did the White House undermine the Republican Party by supporting Democratic candidates. It likewise undermined the party from within, by attacking Republican candidates. A memo from Mr. Haldeman in October, 1969, outlined a letter-writing campaign to silence Republican Senators Percy, Goodell, and Mathias.[306] It consisted of "sending letters and telegrams, and making telephone calls to the Senators, blasting them . . ." [307]

A few days later it was reported to Haldeman that local groups in Illinois had begun sending critical telegrams and letters to Sen. Percy.[308] A handwritten note by Mr. Haldeman disclosed "this was an order . . . I was told it was being carried out and so informed the President." [309] Incredible as it may seem the Party was writing letters to itself, leaders of the Republican Party were being attacked by the head of their own party . . . in disguise.

An incident of serious significance was the suggestion by Mr. Patrick Buchanan that the Florida Republican State Chairman and the United States Attorney General attempt to use a provision in Florida law to keep a Republican challenger off the primary ballot, not because of legal considerations but for political advantage.[310] Earlier, that same challenger had been subjected to a bogus contribution to his New Hampshire campaign, in the name of the Young Socialist Alliance, staged by Mr. Colson, and leaked to the press to discredit his candidacy.[311] Again, a fellow Republican.

Negative politics were even taught to the young.

Mr. Ken Rietz organized the Young Voters for the President as part of CRP and designed projects for them such as the "McGovern—Shriver Confrontation" project.[312] This project used the Young Voters to confront democratic candidates, to generate adverse press, and "upset the candidate." [313] The result was that by September, 1972, they had "learned the McGovern organization and/or the Secret Service has reacted to our activities . . . the street walk was canceled and McGovern spoke in an area that was barricaded off." [314]

The Committee to Re-Elect the President violated the principles of good politics, beginning with its structure and staffing.

The separation between partisan politics and government was violated by the participation of White House staff, as well as department and agency officials, in the campaign operation of CRP. Testimony as to the structure was to the effect that "people who were at the White House had influence over the Committee, they gave it direction, they assisted it," and that the campaign director "came from the Justice Department." [315]

The role of the Assistant to the White House Chief of Staff "was to try to find out all of the things that were going on at the Committee and make Mr. Haldeman aware of them." [316] Mr. Fred Malek, according to the individual in charge of personnel at CRP, became head of the Citizens Division of CRP between March and June 1972, exercising supervisory control, and had an office at CRP, even though he did not leave the White House staff or payroll until September 1, 1972.[317]

Mr. Mitchell at the Justice Department and Mr. Haldeman at the White House "jointly made decisions in advertising." [318] In citing instances of so-called blame-taking, one witness cited an example where Mr. Colson took the blame for ads of questionable political ethics, whereas Mr. Haldeman was actually responsible.[319]

Campaign recommendations from CRP were sent to the Attorney General for his decision as early as July 3, 1971. That particular campaign memo was written by a staff member in Mr. Malek's White House office, with the assistance of an individual in the Office of Management and Budget and an individual in Mr. Harry Dent's White House office.[320] Mr. Mitchell himself testified that he "has frequent meetings with individuals (from CRP) dealing with matters of policy" and staffing of CRP while he was still Attorney General.[321]

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[304] Mr. Odle justified the need for CRP because the President was but a candidate for nomination prior to the Convention. Though, according to Odle, there was little doubt the President would triumph, there was a distinct possibility of a challenge from Congressman Ashbrook and Congressman McCloskey. Odle felt it was not proper for the National Committee to work for President Nixon, with two challengers anticipated. Vol. 1, p. 23.

[305] Testimony of Gordon Strachan, Vol. 6, pp. 2483-2484.

[306] Memo from Jeb Magruder to H.R. Haldeman, October 14, 1969.

[307] Memo from H.R. Haldeman to Jeb Magruder, October 11, 1969.

[308] Memo from Jeb Magruder to H.R. Haldeman, October 14, 1969.

[309] Memo from Jeb Magruder to H.R. Haldeman, October 14, 1969. (handwritten note on the face thereof)

[310] Note 75 supra.

[311] Herbert Porter called Roger Stone and suggested that Stone travel to New Hampshire and contribute money to McCloskey's campaign under the name of an extremist group. Staff Interview with Roger Stone, pp. 2-3.

[312] Memo from Edward Failor to Jeb Magruder, Sept. 23, 1972.

[313] In a Sept. 22, 1972 progress report, Ken Rietz, Director of Young Voters for the President, cited daily orchestrated demonstrations using YVP personnel to confront candidates McGovern and Shriver, in an attempt to generate adverse press coverage. Memo from Ken Rietz to Jeb Magruder, Sept. 22, 1972.

[314] Memo from Edward Failor to Jeb Magruder, Sept. 23, 1972.

[315] Testimony of Robert Odle, Vol. 1, p. 23.

[316] Id., at 31.

[317] Id., at 23, 31-32.

[318] With respect to advertising, Mr. Odle stated that "Mr. Haldeman had an interest in advertising without any question," and Mr. Mitchell, or Mr. MacGregor "and Mr. Haldeman jointly made decisions in advertising." Vol. 1, p. 35.

[319] Dean testified that Colson took the blame for ads of questionable political ethics which had been placed by a Mr. Shipley, whereas Mr. Haldeman was actually responsible. Vol. 4, p. 1490.

[320] Memo on: Grantsmanship, dated July 3, 1971, from Magruder (CRP). It states: "Enclosed is a copy of a proposal to insure that the President and his Congressional supporters get proper credit for Federal Government programs. This proposal was written by Bill Horton in Fred Malek's office with the assistance of Bill Gifford, OMB, and Peter Millspaugh in Harry Dent's office. If implemented this should be an effective method of insuring that political considerations are taken into account." Odle testified that these types of memos were sent to the Attorney General from May 1, 1971, onward. Vol. 1, Ex. 1, p. 449.

[321] Mitchell testified that he "had frequent meetings with individuals (from CRP) dealing with matters of policy" and staffing of CRP while he was still Attorney General, even though in a colloquy with Senator Kennedy during the Kleindienst confirmation hearings (which was entered into the record) Mitchell had testified that at that time he

The hiring of personnel for the Committee was "cleared by Mr. Magruder (CRP), Mr. Mitchell (Justice Department), and Mr. Strachan, who would be looking out for Mr. Haldeman's (White House) interest in the clearance process." [322]

The Assistant to Mr. Haldeman was even well briefed on the Liddy plan long before the break-in, and in fact was called on June 17, 1972, to alert him to the pending break-in.[323]

The temptation and opportunity to abuse executive power thus existed, and the fact that such abuses took place has been demonstrated earlier in the report. For example, the use of government agencies to seek politically embarrassing information on individuals who were thought to be enemies of the White House, which was testified to repeatedly, was certainly facilitated by the presence of White House and agency staff within a non-party campaign committee. These tactics extended beyond the departments and agencies. Mr. McCord testified to phone calls and personal contacts to the effect that there would be executive clemency, financial support for the families, and rehabilitation after prison.[324] This was possible only through the facilities of the Presidency; little if any of it could have been offered by a political party.

A second aspect of staffing that caused problems and that could have been avoided by using the Republican Party, was the use of personnel that had little or no experience in elective politics. The danger with such a staff can be illustrated in the intelligence-gathering area. Candidates and campaign organizations have collected intelligence for generations. In the past, however, there has been something akin to an unwritten code as to the methods and content of information sought.

It is interesting to contrast Mr. Ehrlichman's description of discreet investigations, as intended to develop questionable facets of the personal lives of those being investigated, checking into domestic problems, drinking habits, personal social activities, and sexual habits.[325]

Somehow Mr. Ehrlichman tried to make a connection between the type of undercover prying into private lives of Ulasewicz and his "own knowledge" of Members of Congress who "totter onto the floor in a condition . . . of at least partial inebriation." [326]

Not only did Ulasewicz not investigate the behavior of officials while performing their public responsibilities, but Mr. Ehrlichman offered no evidence to substantiate his "own knowledge."

When Mr. Ehrlichman then testified that it was proper to have ad hoc investigators going into sexual habits, drinking habits, domestic problems, and personal social activities and then provide that information to the electorate, this Senator responded, "You definitely have two different concepts of politics in this country meeting head on." [327]

Significantly, the American people passed judgment on this issue shortly thereafter. A Harris poll exactly two months later reported: "By 83 to 8 percent, the public is massively critical about the hiring of private detectives by the White House to spy on the sex life, drinking habits, and family problems of political opponents." [328]

Whether caused by a lack of experience or by a lack of proper leadership, the staff of CRP had a tragic history. One employee recalled that "when you find that a person you trust and respect is in jail for doing something and that man worked for you, it is quite a serious thing." [329] It was summed up by Mr. Robert Odle, who testified that during his association with the Committee he came in contact with more than 400 of its national staff, and "it now appears tragically that some of those people have acted unethically." Indeed at the time he testified on May 17, 1973, the opening day of hearings, two former members of the staff had been convicted of crimes.[330] To date, in mid-1974, seven former members have been indicted for or convicted of criminal conduct.[331] This is not what politics should be or has been about.

The second area in which CRP took over normal party functions was campaign financing.

Money was not properly raised.

Instead, it was allegedly raised by Mr. Rebozo, a friend of the President, who had no official campaign responsibility. Money was raised by the President's personal attorney. During the 1970 campaigns, he was directed on three separate occasions by the White House staff to disburse funds from a trust fund in his control at the Chase Manhattan Bank in New York. He successively took $100,000, $200,000, and $100,000 from a safe deposit box, on which one of the signatories was a family relation of the White House Chief of Staff.[332]

The beginnings of the administration's relationship with the milk producers association, according to their testimony was a $100,000 contribution to the President's attorney to gain "access" to the White House, and to lay the groundwork for favorable treatment in certain specified ways for the milk producers and the dairy industry.[333] Messrs. Haldeman, Ehrlichman, and Colson, all of whom were senior White House advisors, held meetings to discuss fund-raising, including the $2 million pledge from the milk producers.

Money was raised by a Secretary of Commerce and a Secretary of the Treasury. All of which would have been unnecessary if financing had been left to the professionals in the Republican Party.

The handling of money was equally bad. Large amounts of cash were transferred and used. Secret funds were set up. Financial records were destroyed, on a number of occasions.[334] People with no campaign responsibility were receiving and distributing money. Illegal corporate contributions were given to CRP and accepted.[335]

Even though CRP represented itself as a Presidential re-election organization, it gave $25,000 to a congressional campaign in Maryland.[336] It gave $50,000 to a Vice Presidential donor in Maryland to make it appear that a Vice Presidential fund-raising event was more successful than it was, in what turned out to be an illegal transaction.[337] Mr. McCord's salary from the Committee was continued from July 1972, through January 1973.[338] One witness understood that in Governor Wallace's gubernatorial campaign in Alabama, Mr. Kalmbach provided Wallace's opponent with between $200,000 and $400,000.[339]

The intelligence activities of CRP were the greatest distortion of the political system undertaken by that Committee. The Republican Party had an information-gathering function of a research nature, but it was considered inadequate by the White House which had become used to the sophisticated techniques of law enforcement, national security and government intelligence. Unfortunately, by combining systems, they weren't able to draw the distinction between law enforcement and politics.

As a result, CRP found itself collecting and using secret intelligence from the FBI, and the Internal Security Division of Justice.[340] They developed a Security Unit that burglarized, photographed and wiretapped, that staked out Senator's and Congressmen's offices, and cased the Democratic headquarters.[341] They planned illegal acts against the Democratic Party chairman, at his residence and subsequently at his office. Similar plans were made for Senator McGovern's headquarters in Washington and at the Democratic Convention.[342] Elec-

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did not have any re-election campaign responsibilities. Exhibits 74 and 75 consist of a number of documents wherein Mitchell was "exercising his responsibility as director of the campaign" in June 1971, and January 1972, while still Attorney General. Vol. 4, pp. 1653-1655.

[322] Testimony of Robert Odle, Vol. 1, p. 72.

[323] In his regular "political matters" memo to H.R. Haldeman, Strachan wrote: "Magruder reports that 1701 now has a sophisticated political intelligence gathering system with a budget of 300. A sample of the type of information they are developing is attached at tab "H"." Testimony of Gordon Strachan, Vol. 6, p. 2441.

[324] Testimony of James McCord, Vol. 1, p. 131.

[325] Ehrlichman considered private investigators going into sexual habits, drinking habits, domestic problems and personal social activities are a proper subject for investigation in political campaigns. Vol. 7, pp. 2774-2775.

[326] Testimony of John Ehrlichman, Vol. 7, p. 2777.

[327] Id., at 2779.

[328] *Wash. Post*, Sept. 27, 1973.

[329] Testimony of Robert Odle, in reference to the arrest of Mr. McCord, Vol. 1, p. 29.

[330] James McCord and Gordon Liddy. This refers only to employees of CRP.

[331] James McCord, Gordon Liddy, Jeb Magruder, John Mitchell, Herbert Porter, Robert Mardian and Fred LaRue. This again refers only to employees of CRP.

[332] Mr. Kalmbach delivered these funds, left over from the 1968 campaign, to a man he did not know, but could identify by means of clandestine signals at the Sherry-Netherlands Hotel in New York. Testimony of Herbert Kalmbach, Vol. 5, pp. 2142-44.

[333] Mr. Kalmbach understood the $100,000 contribution from AMPI in 1969 to be tied to "access" to the President and administration approval of new price supports for dairy farmers. Affidavit of Herbert Kalmbach, to the Senate Select Committee on Presidential Campaign Activities, supra.

[334] Testimony of Herbert Kalmbach, Vol. 5, p. 2111; see also, testimony of Hugh Sloan, Vol. 2, p. 572.

[335] See, testimony of eight corporate executives convicted of illegal corporate contributions Nov. 13-15, 1973. Vol. 13.

[336] Testimony of Hugh Sloan, Vol. 2, p. 541.

[337] Testimony of Maurice Stans, Vol. 2, p. 756.

[338] Mr. McCord testified that he received $25,000 for legal fees and a continuation of his $3,000 monthly salary (through January 1973) from the Committee to Re-Elect the President via Mrs. Hunt, Vol. 1, p. 130.

[339] Testimony of John Dean, Vol. 4, p. 1536.

[340] Testimony of James McCord, Vol. 1, pp. 178-181.

[341] This refers to the White House Plumbers (Vol. 3, pp. 919-924), the surveillance of Alfred Baldwin (Vol. 1, pp. 396, 397) and the aborted attempt of the Liddy-McCord team to break-in to McGovern headquarters, as well as the successful Watergate break-ins (Vol. 1, pp. 125-247).

[342] These were the initial targets specified by Mr. Liddy to Mr. McCord. Testimony of James McCord, Vol. 1, p. 128.

tronic surveillance of Senator Muskie's campaign office was discussed as a future target, according to McCord, but instead an office in an adjacent building was leased under the false name of John B. Hayes.[343]

Transcripts of illegally wiretapped phone calls were available to the Committee to Re-Elect.[344] The person transcribing the wiretaps was paid by payroll check from the Committee.[345]

A secretary on the CRP payroll typed up illegal wiretap transcripts, assisted Mr. Liddy in preparing a pass to enter McGovern headquarters, and eventually took part in the shredding of illegal intelligence documents.[346]

CRP built a capability to intercept and photograph memos in the Muskie campaign, and infiltrated not only Muskie's campaign but McGovern's suite at the Democratic Convention and Senator Humphrey's campaign (with an infiltrator known as Sedan Chair).[347] CRP became a group that had a .38 snub-nosed, Smith and Wesson revolver in its files that it handed out to one of its spies,[348] that was purchasing spy equipment from bugging equipment to microfilm machines for viewing its stolen documents, that was falsifying credentials, and shredding incriminating documents. Expensive charts were purchased, to display plans for bugging, mugging, burglaries and the like to the Attorney General. After that briefing, Liddy reported that Mr. Dean had asked him to destroy them, but because the charts were so expensive, Liddy decided not to. It found itself with an arrangement for two attorneys, Mr. Caddy and Mr. Rafferty, to appear at the second precinct following the Watergate arrests, when the participants did not return home from their night's work.

At one point the Committee was even instructed by the White House to hire a shaggy person to sit in front of the White House wearing a McGovern button.[349] This could only be matched by the hiring of counter-demonstrators for the funeral of J. Edgar Hoover,[350] hardly a political event.

The Committee to Re-Elect the President not only undermined the national Republican Party, but the proper functioning of the Democratic Party was likewise subverted. The intelligence functions previously described were designed, among other things, to influence the choice of the Democratic nominee for President. As part of that tactic, the illegal or unethical capabilities that were set up were consistently focused on the strongest contender. The early attack was against Senator Kennedy. It shifted to Senator Muskie. As Muskie's strength diminished, instructions came from the White House to shift the attack to Senator McGovern. This included not just intelligence, but the so-called dirty tricks operation as well.

The attempts to undermine the Democratic Party went beyond the candidates. A memo entitled "Counter Actions" and dated September 11, 1972, noted that depositions could be taken in a civil suit against Larry O'Brien, covering "everything from Larry O'Brien's sources of income while Chairman of the DNC to certain sexual activities of employees of the DNC. They should cause considerable problems for those being deposed." [351]

Mr. Dean recalled Mr. Haldeman telling him that he hoped O'Brien would be Senator McGovern's campaign manager, "because we have some really good information on him. (Dean) believed he was referring to tax information at that time." [352]

B. THE ELECTORAL PROCESS

A whole range of activities during the 1972 campaign, including so-called dirty tricks, were aimed at the voter. To the extent that improper or illegal methods were used to influence votes, they interfered with the electoral process.

The task of influencing the final vote for President had its beginnings early in the campaign process. It was a complex operation, not simply questionable tactics to get people to vote for Mr. Nixon. Rather, its thrust was negative, to get people to vote against strong contenders.

To take away votes from Senator Muskie in New Hampshire, Mr. Colson (stating that he had the President's approval) drafted a letter urging a write-in campaign for Senator Kennedy. Between 150,000 and 180,000 of the letters were sent out, a press conference was staged in support of the bogus campaign, along with appropriate advertising. All at a cost of some $10,000, paid for by contributors to a Republican President, not a Democratic write-in candidate.[353]

The President's campaign funds were also given to Democratic contenders Eugene McCarthy and Shirley Chisholm.[354]

Along this line, there was a project to finance the candidate for the Democratic nomination for Governor who was opposing former Governor George Wallace. This was to be financed by surplus funds from the 1968 campaign, which Mr. Haldeman testified that he "requested or approved . . . for funding support to a candidate for Governor in Alabama."[355]

Mr. Haldeman also approved "the funding of Donald Segretti."[356]

The story of Segretti and his henchmen illustrates more dramatically than anything else the efforts of the White House in the 1972 election to subject the voting privilege of American citizens to gutter politics.

Whether Segretti had any significant or measurable effect is not the question. It was an example, straight from the White House, of the worst in American politics.

It included informers planted in opponents' campaigns, stinkbombs unleashed against voters attending a campaign picnic, against volunteers in a telephone bank operation and inside a campaign headquarters, a letter on a replica of Muskie stationery accusing Senators Jackson and Humphrey of sexual improprieties in the most vile language, flyers inviting voters to a non-existent open house at Muskie headquarters, a flyer advertising a free all-you-can-eat lunch with drinks at Humphrey headquarters, a small plane circling the Democratic Convention advertising "Pot, Peace, Promiscuity, Vote McGovern," adverse press that forced cancellation of a Muskie fund-raising dinner, printed cards with "if you like Hitler, you'll love Wallace—Vote for Muskie," stinkbombs thrown into a campaign headquarters, a forged letter on McCarthy stationery urging McCarthy delegates to switch to Humphrey, a letter on Yorty stationery blaming the McCarthy letters on Yorty, hired hecklers, pickets, and informers to disrupt, infiltrate, and spy on Senators Humphrey, Muskie, and Jackson, a false press release with the information that Muskie was using Government-owned typewriters and Federal employees not on leave of absence, a series of false anti-Muskie advertisements in the University of Miami campus newspaper, the local Cuban newspaper, and on the local Cuban radio station insulting the Cuban people, a false press release on Muskie stationery with a vague stand on aid to Israel which did not go over well in Miami Beach, a flyer claiming Muskie favored busing while sending his children to private schools, rats and birds released at a Muskie press conference, a naked woman to run in front of Muskie headquarters yelling "I love Muskie," a flyer falsely advertising the appearance of Lorne Greene and Mrs. Martin Luther King at a Humphrey rally, hundreds of dollars' worth of flowers, chicken, and pizzas delivered to Muskie headquarters, a set of invitations to Black Panthers, the Gay Liberation Front, the Hare Krishna movement and African diplomats for a Muskie fund-raising dinner, a chauffeur for the Muskie campaign, code-named "Ruby 1," who would turn over documents being delivered so they could be surreptitiously photographed, and eventually shown to Mr. Mitchell, a rented office near Muskie's headquarters to facilitate copying of documents, a group of infiltrators in Muskie headquarters in Milwaukee, Humphrey headquarters in Philadelphia, McGovern headquarters in Los Angeles, Washington, and Miami, a ploy to get campaign workers to drink beer and skip work, and an operation to switch phone-bank call sheets so the same people would be called repeatedly or the wrong message would go to selected groups.[357] This is not to mention similar operations by persons known as "Sedan Chair 1" and "Sedan Chair 2"; [358] and "Ruby II." [359]

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[343] Testimony of James McCord, Vol. 1, p. 153.

[344] Testimony of Jeb Magruder, Vol. 2, p. 827.

[345] Alfred C. Baldwin operated as an employee of the Committee to Re-Elect the President, was paid by payroll check from the Committee and was given an identification pin by the Committee. Testimony of Alfred Baldwin, Vol. 1, p. 393.

[346] Testimony of Sally Harmony, Vol. 1, p. 463.

[347] Interview with Herbert Porter, Aug. 20, 1973. Interview with Roger Greaves, Aug. 21, 1973.

[348] Mr. Baldwin was given a .38 snub-nosed revolver, Smith and Wesson, from the first or second drawer of a file cabinet at the Committee to Re-Elect the President. Testimony of Alfred Baldwin, Vol. 1, p. 392.

[349] Robert Reisner testified that Charles Colson instructed Magruder to hire shaggy person to sit in front of White House with McGovern button. Vol. 2, p. 512.

[350] Robert Reisner believe it was Charles Colson who initiated the hiring of counter-demonstrators at the Hoover funeral. Id. Hunt testified to enlisting the aid of Mr. Barker and associates during Mr. Hoover's funeral. Hunt was informed by Liddy that in conjunction with demonstrations, an effort would be made to desecrate the catafalque of Hoover in the Capitol. Vol. 9, p. 3712.

[351] Vol. 4, p. 1471.

[352] Id.

[353] Interviews with Jeb Magruder, August 18, 1973, p.3, and October 1, 1973, p. 11.

[354] Interviews with Gordon Strachan, August 13, 1973, p. 8; interview with John Mitchell, June 27, 1973.

[355] Testimony of John Dean, Vol. 4, p. 1536.

[356] Testimony of H.R. Haldeman, Vol. 7, p. 2876.

[357] This list was complied from the testimony of Donald Segretti, Vol. 10, pp. 3980–4054; Martin Kelly, Vol. II, pp. 4376–4402; Robert Benz, Vol. 11, pp. 4403–4434; and John Buckley, Vol. 11, pp., 4435–4477.

[358] See, interview with Herbert Porter, August 20, 1973; interview with Roger Greaves (Sedan Chair 1), August 21, 1973; testimony of Michael McMinoway, Vol 11, pp. 4478–4535.

[359] Testimony of Marc Lacritz, Vol. 11, p., 4636 (describing the activities of Thomas Gregory, a student hired by Howard Hunt).

It was nothing short of a massive operation to deprive the American voter of information about Democratic candidates for President. It was significant not so much as an attack on politicians, but as an attack on voters and their opportunity to cast a fully-informed vote.

Dirty tricks were not the only means used to influence the electoral process improperly.

Misleading the voter by official conduct and statements was equally in evidence. This kept critical information hidden from voters, when there was a legal obligation to disclose it, thereby preventing a proper judgment of the incumbent administration.

The Watergate break-in was called a "third rate burglary at a time when the White House knew better, based on its briefings and discussions, including a discussion of executive clemency with the President in July 1972.[360]

Mr. Mardian testified that he even complained to Mr. Clark MacGregor, who had succeeded Mr. Mitchell as campaign manager, that statements being made regarding non-involvement of campaign personnel were untrue, and that he unsuccessfully attempted to brief MacGregor about the tremendous exposure of certain people in the campaign.[361]

On August 29, 1972, the President assured the nation that an investigation by John Dean had cleared the White House of any involvement. This statement was made in spite of the fact that the President had received no report from Dean, and never, ever talked with Dean about Watergate.[362]

In mid-September 1972, the President discussed possibly unethical out-of-court contacts that had apparently taken place with the judge in one of the Watergate lawsuits, as part of a strategy to keep the process of justice from operating.[363] Delay or obstruction of this process again insured that voters would not have the legal record before them in November.

In mid-October 1972, high level staff meetings at the White House were convened to decide how to handle news reports about Segretti. Even though those participating knew or had access to the full Segretti story, the decision was made to issue tough denials, and what Mr. Richard Moore described as "weasel words." [364] The story was basically correct, yet it was denied as "hearsay, inuendo, and character assassination." No effort was made to tell the truth. The voters were kept in the dark.

Perhaps this tactic was best summed in testimony by Mr. John Mitchell. He was interviewed by the FBI on July 5, 1972, and stated that all he knew was what he read in the newspapers, despite testimony that he had been extensively briefed about Watergate by Mardian and LaRue. His explanation: "at that particular time, we weren't volunteering any information." [365] His reason: "the re-election of the President, this particular President, was uppermost in my mind without question." [366] One man was thereby elevated above the fundamental principles of this nation.

TRANSITION (FROM FACT TO OPINION)

At the conclusion of the fact-gathering phase of the Committee's mandate, I met with legislative assistant, A. Searle Field, and assistant minority counsel, H. William Shure, to discuss what shape our report on Watergate should take. We settled upon the following "woulds" and wouldn'ts":

1. We would emphasize the known in order to impress upon the reader the importance of its implications rather than explode new facts of scandal. We were convinced White House strategy was (is) geared to numbing America past concern by innundating America with one White House horror after another.

2. We would report within a framework of principles and institutions rather than people.

3. We would opine and editorialize but separately from the factual presentation.

4. We would recommend remedial legislation.

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1. We wouldn't try and resolve conflicting testimony.

2. We wouldn't make judgements on individual guilt or innocence.

3. We wouldn't cite "shaky" material as proof.

If what you've read up to now in these pages is not new, neither is it susceptible to argument.

The indisputable ugliness of Watergate is of such scope as to categorize it as a sheer insanity; either for those who participated in it or have since defended it.

I don't know, except as the courts have already passed judgment, who is guilty or who is innocent.

But I do know that to accept the *White House* version of your Constitution, your government and your politics is to counterfeit America.

UNDERSTANDING WATERGATE

Alright, what to do with the raw data of Watergate? Unless positive understandings and actions emanate from this negative sequence, then it seems to me nobody really was caught breaking into Watergate.

The gut question this summer is what do Americans now know and what are they going to do about it? By way of dramatizing the need for a proper answer to that question, let me cite the following example. I recently received a critical letter which read:

"Really, Senator, all is fair in 'love and war'."

American elections—war?

Member of another party—enemies?

Politics—fear?

Is that the lesson America is taking home from the Watergate? Because if such is the case, then a whole new era in American politics will have dawned and Gordon Liddy will be recognized not as peculiar but as a visionary. Also at such time we of the Select Committee would have failed. Though a year has gone by between the time of the Senate Watergate hearings and this Senator's Watergate conclusions, it is a matter of Constitutional life and death that the American people make a connection between those two events.

What about the Constitution? Is it up to our times? Certainly it never before has obtained such visibility. But how about acceptance?

I. THE CONSTITUTION

Later in this section I intend to editorialize on the abuses to our governmental and political institutions. However the pivotal struggle of Watergate is one between men who play for the moment and look upon the Constitution as a 4th of July interruption to their own charter and men who play for tomorrow and understand it to be the force that has given America success beyond America's natural abilities for success.

Never first in population, land mass or natural resources, why have we attained a national greatness and personal affluence beyond that achieved by any country or people?

Because we perjured? Because dissent was disloyalty? Because justice was political? Because our concern was developing fear? Because we burgled? Because we thought the worst of each other?

Or, because

"All men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. . . ."

Or, because

"Congress shall make no law . . . abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Or, because

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. . . ."

Or, because

"No person shall be deprived of life, liberty or property without due process of law. . . ."

Or, because

"In all criminal prosecutions the accused shall enjoy the right . . . to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor. . . ."

Or, because

"The President . . . shall take the following Oath: 'I do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my ability, preserve, protect and defend the Constitution of the United States."

I catch none of the "everybody's doing it" or "transcripts" spirit in any of those words.

The Constitutional history of Watergate to this date has been that of a President and his Ministers who de facto have tried to "yes—but" most sections of the Constitution.

I feel Article V to be preferable to Administration amending methods.

Several years ago many Americans were willing to silently tolerate illegal government activity against militants, terrorists or subversives as an expeditious way to circumvent the precise processes of our justice system. Though quick, it also proved to be only a short step to using such illegal tactics against any dissenting Americans. The result was we almost lost America. Not to subversives, terrorists or extremists of the streets but to subversives, terrorists and extremists of the White House.

That is why there can be no acquiescence, now, to a few "yes—buts" to the Constitution. To do so would be just as big a cop-out as those who espouse violence in the name of peace.

American Constitutional democracy is not the tidiest, most orderly, most efficient, most expeditious, quietest political system on earth. It is in fact raucous, off in a thousand directions of concern, involved with millions of individuals rather than a mass, revolutionary and querulous. But what

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[360] Presidential Statement, August 15, 1973, p. 3; testimony of John Ehrlichman, Vol. 7, p. 2848-2849.

[361] Testimony of Robert Mardian, Vol. 6, p. 2430.

[362] Testimony of John Dean, Vol. 3, p. 955.

[363] Id., at 958; Transcripts of Presidential Conversations, September 15, 1972, p. 60.

[364] Testimony of Richard Moore, Vol. 5, p. 2038.

[365] Testimony of John Mitchell, Vol. 5, p. 1926.

[366] Id., at 1827.

some deem as flaws are precisely its genious. For those who have made it, it's a pain. For those who haven't, it rebuts predestination.

Our greatness will always be in direct proportion to our freedoms. Yes, that includes the freedom to be wrong.

Free spirits, not measured freedom, has been the promise of the Constitution. We can have peace in Vietnam, on campus and in the neighborhood without forfeiting that promise and no man or group of men deserve leadership if they would put the nation to such a choice.

II. GOVERNMENT

The offices of government in this nation are complex and awesomely powerful. Even if engaged on legal pursuits. It's not an exaggeration to state that a United States Senator needs every bit of his clout to move effectively within the bureaucratic maze. Insofar as the 99.9% of Americans who are not Presidents, Congressmen or Senators, if anything goes wrong with either end of the governed-government equation, the mismatch of the century ensues. And that's so even though the slip-up is innocently legal. Fully 50% of a Senator's time and staff are devoted to resolving the innocently legal slip-ups between his constituents and their government. And I'm sure those who speak up are no more than 5% of those being wronged.

What then if agencies and officers of the United States government become involved, not in innocently legal mistakes, but purposefully illegal vengeance? In light of the facts already presented, the greatest danger of this section is for me not to overeditorialize the case so as to engender disbelief. Of those who read this report, 99% of them know Senators, Congressmen, successful lawyers and other powerful persons. But America is not supposed to be about the powerful—rather the frail. And they're the ones who will eventually suffer the most if the White House record on using the government agencies politically to bring about conformity is allowed to go unchallenged.

The "enemies list", revealed in the dialogue I had with John Dean, has received much hoopla. But aside from the fact that today it has become a badge of honor, have you ever thought what it feels like to be an American and have the highest office in the land look upon you as an enemy? To be spied on, to be investigated, to be harrassed, to be reviled by your own country? It may be a badge of honor when revealed but it's frighteningly disheartening while it's going on and no one believes that these things are happening in America.

Oh, yes, I've heard the excuses for the illegal use of the federal law enforcement/intelligence community. National security, domestic security, terrorists, law and order, subversives, militants. But let me put the White House record in the proper factual context.

No administration within my lifetime has a worse record of convictions in relation to indictments than the Nixon Administration. Why? Because it tried to achieve law and order by lawlessness. It was the courts that said no, not the Justice Department.

In the matter of the Special Compliance Division of the IRS and their keeping tabs on "militants, subversives, terrorists, ideological and other organizations," it is fact that in all the IRS files that came into White House possession, there is not one militant, subversive, terrorist individual or organization. That is the lesson of a White House gone ape. Our lesson is that you can't protect the rights of anyone unless you protect the rights of everyone.

The differences between myself and this Administration on Watergate are not philosophical, political, historical, personal or regional. They are Constitutional, pure and simple. A better summation of our differences could not be found than the surreptitious entry language of the "1970 Spy/Huston/Sullivan Plan" and again in the words of the President on September 15, 1972:

"Use of this technique is clearly illegal: it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion."

You can't have that and democracy.

"I want the most comprehensive notes on all those who tried to do us in. They didn't have to do it. They are asking for it and they are going to get it. We have not used the power of this first four years as you know. We have not used the Bureau (FBI) and we have not used Justice. But things are going to change now. And they are either going to do it right or go."

You can't have that and democracy.

Remember what Pat Gray said?

"I said early in the game that I thought that Watergate would tarnish everyone with whom it came in contact and I am no exception. *I had a responsibility not to permit myself to be used, not to permit myself to be deceived* and I failed in that responsibility and I have never failed in anything that I have undertaken until this point in time. And it hurts."

The Congress and the American people, with more facts in hand than Pat Gray ever had, have an even greater responsibility not to be used or deceived in this matter of abuses to our governmental agencies and political processes.

Because most elected officials or citizens haven't had the FBI, IRS, CIA, MI, SS, Justice Department, Defense Department, Commerce Department, "Fat Jack" or Tony Ulasewicz on their train does not mean the abuses of Watergate passed them by. It only means that if they don't speak out now, they've got no complaint later. A little less spectating Watergate and a little more speaking out is very much in order.

Admittedly to speak out is tough. Just as the Bill of Rights and democracy is tough.

But speaking out is a patriotism far better suited to 1974 than 1972's wearing of flag lapel pins by White House and CREP employees while they advocated burglary, wiretapping, committed perjury, politicized justice, impugned the patriotism of those who disagreed with them and threw due process in the shredder.

Americans of all generations have suffered and died at their best because they were uncompromising in the idealism they wished for their country. Who of this generation, then, wants to declare a lesser truth for America?

It is the answer we give to that question which matters. It will decide America.

III. POLITICS

In November, 1962 I was elected to my first public office—State Representative to the General Assembly in Hartford, Connecticut.

Now, some 12 years and 8 elections later, I am rounding out my first term in the United States Senate—a boyhood dream come true.

Yes, it's time consuming and rough on the family life. To that extent it's tough. But each dawn for 12 years has me looking forward to the day. Politics is a clean business with dedicated people. The terms "9–5" and "5-day week" are seldom heard. The winning politician is in the business of love and not hate. The average politician takes the cost of serving out of his pocket and not the public's taxes.

These things need saying to challenge the "end justifies the means" image, the "everybody's doing it" image that the White House knowingly and a few ignoramuses unwittingly would give politics.

We're replete with failing personally as I, my staff and my family know all to well. But with the public trust given us by our constituencies—we'd no more see that in the mud than the American flag.

Can I prove the above? Sure. Look at your America as I've asked the people of Connecticut to look at their State.

The truth of American politics is in the schools of this country, not a wiretap; in the hospitals, not a burglary; in the housing projects, not a scurrilous letter; in the parks, not in hush money; in facilities for the retarded, not in spying; in people who volunteer in a thousand ways, not in dirty tricksters; in politicians who reach for the weak first, the strong second, not in hatchet men. In short, dirt does not conceive so much tangible excellence as we have in our country.

The truth of America is not in the deeds of men and women at their worst but rather at their best. Government with its politicians and the people are not apart in a democracy. They are one.

And so it is we will not get any better ethics or more idealism in the Oval Office or on the Senate floor than we do in the voting booths.

Watergate was conceived in an ignorant apathy of the electorate and was executed in semi-conscious apathy. Its greatest danger is that it will be forgotten in an apathy of total knowledge. That kind of voting booth acquittal means that American politics has officially joined the Administration on the dark side of the manhole.

Thank you, no!

PEOPLE AND POWER

Watergate is not the story of one powerful man. It is a story of people. Though my efforts have been directed toward the principles and institutions of this nation, I am well aware that their existence or disappearance reflects human behavior.

It is no source of pride to me as an American that the coinage of responsibility has been in inverse measure to rank and power. I was taught early on, first by my Dad and then by the United States Army, that rank has its privileges because rank has its responsibilities.

Yet in the case of this President, I've heard the word "privilege" used over and over again as a dodge of responsibility.

The word "stonewall" has been used to describe the President's defense. Believe me, it has been and continues to be a "human wall."

REPUBLICANS

Obviously this has been rough duty in a Republican sense. However, from the outset I've operated on the basis that the best investigation was the best politics. I couldn't change the facts. I couldn't silence those who knew the facts. All I could do was to make sure that a Republican spoke the facts

if not before, then simultaneously with a Democrat.

On page 103 of the "Transcripts", President Richard Nixon is talking to John Dean:

"I don't know what we can do. The people who are most disturbed about this (unintelligible) are the (adjective deleted) Republicans. A lot of these Congressman, financial contributors, et cetera, are highly moral. The Democrats are just sort of saying, "expletive deleted) fun and games.' "

Richard Nixon understood the strong base of integrity that is a Republican heritage. Because he rejected it then is no reason for any Republican to do so now.

Because the Republican National Committee and its Chairman, Senator Robert Dole of Kansas, were in the traditional Republican mold of decency and honesty is exactly the why of a Committee to Re-Elect the President. At an executive session of the Select Committee held on Wednesday, June 19, 1974, I inquired of the staff and the Committee whether after one year of investigation there was evidence of wrongdoing by either the RNC or Senator Dole. The answer was a clear-cut "no" in both instances. Republicans who now state that "everybody does it" dishonor the men and women of their own official party organization and Bob Dole who didn't do it and wouldn't have done it.

One last comment.

The record establishes that:

1. The White House took a dive on the Congressional races of 1972 insofar as many Republican candidates were concerned.[367]

2. Democratic candidates were actively assisted in some instances.[368]

3. The White House expended considerable resources and energies zapping Republican Senators and Congressmen.[369]

4. The Justice Department was consulted as to how to keep a Republican off the Florida primary ballot.[370]

Along with a will to pursue the truth, I would hope the will to win for the Republican Party is slightly stronger and fairer in its next titular head.

TOMORROW

No, this won't be the Watergate to end all Watergates.

Other men will tape the doors of America in other times.

Whether they succeed will be a matter of spirit.

For them as now, the state of our spirit will determine the state of this Union.

RECOMMENDATIONS

The necessary legislative and/or Constitutional steps should be initiated to:

1. Make all forms of domestic electronic surveillance, including wiretapping, illegal.

2. Have the Office of Attorney General of the United States be an elected office.

3. Make all nominations for Federal elective office by direct, primary, with unaffiliated voters free to participate in the party primary of their choice.

4. Establish a joint congressional committee, with complete investigative powers and rotating membership, to monitor domestic intelligence-gathering and law enforcement activities throughout the executive branch, and be able, under appropriate safeguards, to obtain and provide access to relevant materials requested by any Member of Congress. Similar oversight functions now held by congressional committees should be transferred to the joint committee.

5. Grant the Supreme Court original jurisdiction over disputes as to any privilege asserted by the President with respect to the Congress or Federal law enforcement agencies, thereby making the Supreme Court the first and final arbiter of the issue.

6. Subject senior White House staff personnel to confirmation by the Senate.

7. Prohibit White House staff from making recommendations, inquiries, or exchanging classified information with any department or agency as to any case, action, or funding except upon written authority of the President, which authority shall be immediately transmitted to the appropriate congressional committee, along with a description of each instance in which the authority is used.

8. Draft a code of candidate responsibility, with appropriate disciplinary rules and grievance procedures, to be enforced through a Federal elections commission.

9. Provide for "accredited campaign representative", exchanged by opponents for nomination or election to Federal office, to be accorded the privileges of travel, interviews, and news releases granted to accredited press representatives in general.

10. Require Federal candidates and officeholders to fully disclose all sources of income and assets or liabilities over $1,500, to be submitted by February 15 of each year, for the calendar year preceding, for publication in the CONGRESSIONAL RECORD. This to supersede any present statutes relative to congressional financial disclosure.

11. Require campaigns for the presidency, after a nominee is selected, to be run by the party of the candidate.

12. Require that campaigns for nomination or election to Federal office be conducted between the first Tuesday of September and the first Tuesday of November.

13. Designate election day as a Federal holiday, in order that the voting franchise not be restricted by competing concerns about jobs.

14. Require that candidates for Federal elective office report all collections and expenditures two weeks before election day, with no collections thereafter.

15. Prohibit candidates for Federal elective office from accepting cash contributions over $50 or spending more than $10,000 in personal funds.

16. Restrict candidates for Federal elective office to only one campaign committee.

17. Open all congressional hearings and sessions to the public, except with respect to national security, proprietary information, or personally defamatory matters. The present rule, leaving such open sessions up to each committee's discretion, should be made mandatory and uniform.

A. SEARLE FIELD.
WILLIAM WICKENS.
H. WILLIAM SHURE.
RICHARD MCGOWAN.

Thank you.

Mr. President, I now want to leave the recitation of this report, which has been included in the RECORD in its entirety, to once again examine what it is that is being debated here on the floor.

What is being debated is to, in effect, have the Federal Government inject itself, in a massive way, in our free election process. It has already done so in terms of Presidential elections. And we have seen how even in the course of that narrower exercise, abuse has already taken place.

What do you think it does for the moral fiber of this Nation and the definition of truth when the young people read article after article as to how spending limits are meaningless, are violated day in and day out by the campaigns of the various candidates in the several States during this primary season?

The premium is not how to go ahead and make the law better or make the selection process better, but rather how to end run the law. Who can come up with the best idea that, in effect, will end run the law and so the candidates can spend more money and everybody gets away with it.

How many times have they seen candidates, and I put that in the plural, that merely have campaigns out there with no appeal in terms of the substance of the campaign, but are out there to collect Federal campaign funds. Who is to say that the interminable process that we are being put through now is good for the democratic process. We have a real problem, and do not think we are not impacted by it on the Senate floor.

Our problem specifically is that the American people are getting tired of politics, tired of the election process, dispirited and discouraged by its frailties and its illegalities. As they are being turned off, they do not vote, and as they do not vote, more and more of the positions of responsibility are being filled by those inadequate to the task, or those who are the spokesmen for one-issue groups, and less and less we do the business of the Nation here on the floor of the Senate. Rather, the Senate has been reflecting those narrow, one-issue campaigns and candidates.

I do not worry about how the country will fare, as long as everyone is participating. We will have high-quality individuals serving. We will have high-quality laws, high-quality rules. But the problem does exist, in other words, here in the U.S. Senate. It is a direct reflection of how the American people's lack of participation in the process finds its way into this Chamber and the Chamber down the way and the building down at the other end of Pennsylvania Avenue.

This is the problem we should be addressing. How do we stimulate the in-

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[367] Gordon Strachan testifed that there was a list of approximately 100 Democratic Congressman, primarily from the South, who were not to receive active opposition from the White House. Vol. 6, p. 2484.

[368] Carmichael/Eastland campaign in Mississippi for the United States Senate, 1972.

[369] As part of a White House campaign against Senators Percy, Mathias, and Goodell, a confidential memo by Mr. Haldeman on October 11, 1969, ordered a program of: "sending letters and telgrams, and making telephone calls to the Senators, blasting them . . ."

[370] Memo to Attorney General Mitchell from Jeb Magruder, August 11, 1971: "Pat Buchanan suggested that maybe we could have the Florida State Chairman do whatever he can under the law to keep McCloskey (Rep. McCloskey, R-Calif.) off the ballot."

terest which brings everyone into the political process? It is not by going ahead and financing mediocrity or guaranteeing that you do not have to have a good idea to get elected. We are only trying now to find out how we pay for the rottenness that exists. We are blaming the fact that people want to get together to give their moneys, saying it is their fault. The fact they get together and form a PAC, that is what is bad. No, that is not what is bad.

What is bad is we cannot generate any enthusiasm, either by the nature of our candidates, their character, or ideas. And so we want the Federal Government to pay for it, and I say nuts.

That is what this debate is about. The Federal Government does not need any more power vis-a-vis the election process. There are the issues that are being debated out here on the floor. It is not just a simple old campaign financing reform bill. It gets to the heart of what we are supposed to be about in this democracy. We have failed miserably in terms of that election process, and it eventualiy is what is going to bring us to our knees. This country can do many things, but you cannot put it on automatic pilot. As Franklin put it, the people rule, and we are in good shape as long as they are ruling, but they are not ruling.

They feel that they have no stake in the process or in the outcome and they are going away in droves. What we do not need is a subsidy of wretched performance.

To digress for 1 minute, I will give you a good analogy. It concerns another issue which I have stood on the floor and talked about, this business of merging religion and politics. Do you know why people want to merge religion and politics right now? Because both institutions are failing. The congregations diminish, as the voters diminish. So salvation is seen as merging these two institutions rather than having each one stand on its own feet and compete for excellence. Rather than have them stand up and attract their own constituency, the ministers and politicians look to each other rather than those they are supposed to serve.

There is no salvation in merging religion and politics. Each has to derive its own strength from what it proposes, from the problems that it solves, from the opportunities that it presents.

But instead of coming to the understanding that both these institutions are out of date, the leadership looks to each other with some sort of misty-eyed nostalgia, even though both institutions in many instances have become irrelevant to the needs of those they are supposed to serve.

Well, the same is true right here. We are trying to enhance the democratic process and we are afraid to do what is necessary in terms of the courage of decision, for example.

Has anybody conceived of the fact that maybe one of the problems that we have is we do not make any decisions anymore? We are trying to hone to a fine art and gettng lost in the fog. We wonder why people are not excited about politics. Where are the ideas that are supposed to be conflicting and competing? How can people make choices anymore when everybody stands for the same thing and usually the same thing means nothing or the lowest common denominator?

Now, I think we are talking about the problems of the free election process and of politics and of government, not where do we find the money to carry us through our banality, our mediocrity, our nothingness. Where do we get the money? This legislation says: Let us go and get it from the Federal Government. But if we do get it from the Federal Government, we have given up another very important power of the people of this country, really their last power, to place a check on all of us.

I think we have a job to search for new ideas to further stimulate growth in this great democracy of ours, but they are not to be found in this kind of legislation.

Just take the principle I cited, which I offered as my reform. My own feeling is that rather than worry about the amount of money, worry about the length of campaigns, the length. How about using that as the self-disciplining factor?

If you cut down the length you are going to cut down the money, but you will not give away people's constitutional rights and you will not put the process in the hands of a constitutional government.

Why should a congressional campaign be longer than 60 days? Please tell me. Do you think anyone is honestly tuned in except for the months of September and October?

Maybe we are a free source of entertainment for the media. Fair enough. The various television stations, newspapers and magazines pay enormous fees for entertainment; we are free.

But I do not want to be entertainment. That is not my purpose here on the Senate floor. It is to try to represent effectively 3 million people in the State of Connecticut. They do not have any voice down here. I am their power. It is the power that I represent that has the opportunity, at least, to bring hope.

Sure, I think we should be reforming the system. I think we ought to shorten the term of election campaigns. This is not an entertainment event. It is very serious business. During the last 60 days is when all the people are tuned in. We know that from our own campaigns. We know that advertising advisers say that is when you want to put on the big push, in September and October, after Labor Day.

Well, let us do it. You will not have to have any Federal financing if you have 60-day campaigns. If somebody tries to get out and blitz with a big sum of money, I believe it would stick out like a sore thumb and people would vote that person out.

I have confidence in people. The electorate can make judgments on how much is being spent, where it is coming from and the impact it would have on their own interests.

In my own State of Connecticut, I tried over the years to have independents participate in the primary process of the Republican Party. I was fought every step of the way by the Democratic incumbents and the State government in Connecticut. I based my argument on free association, that the Republican Party has the right to make its own decisions as to who shall and who shall not participate in its deliberations.

I took that fight, and the Republican Party of the State of Connecticut took that fight, all the way to the Supreme Court, because we were up against an entrenched Democratic Party in the State of Connecticut, and we won in a 5-to-4 decision.

So far as the Democrats are concerned, do they believe people have a stronger reason for voting in a general election if they have some say as to who the candidates are going to be? Is that another approach we ought to take?

I read in the papers the ads about these various convoluted processes called caucuses and the primaries themselves, concerning whether they are representative or what. How about letting the American people, whether Democrats, Republicans, or Independents, get into the primary process and let it truly be a primary process and let them say who the candidates will be. Will that get more money and interest into politics in the sense of greater individual participation?

I have thrown out three ideas which may be good, bad, or somewhere in between.

What they do not do is thrust upon the taxpayers of this Nation the burden of paying for our mediocrity. They try to get the American people involved, not to have socialized politics.

Everybody is so scared of socialized medicine, socialized transportation systems, socialized education.

Do you know what this is? This is socialized politics, pure and simple.

I believe in competition. I believe in the excellence of ideas, in the excellence of people, in rewarding those who make hard choices. Not in figuring out a way to pay for the brand of

politics that both parties have been practicing over the past decade.

I would be delighted to work with any of my colleagues on a campaign reform bill. I think it would be just great. But to come at it by trying to twist around the final act? You have to come on the stage in the first moments of the first act.

Mr. President, I would hope that the pending legislation be defeated. I might add that as some seek to finance our mediocrity or socialize politics, I do not think they have done it in any particularly dignified or edifying way. I do not think we have to go and arrest Members and I do not think we have to stand here and talk after seven cloture votes. We have spoken. The Senate has spoken. The American people, therefore, have spoken. It is going to be defeated again on Friday.

Certainly, I think everybody has the opportunity to push their point to the limit. I have been in that boat too many times than to try to deny it to anybody else. But, you know, you win some and lose some. I realize the prevailing attitude around here in the last several years is you have to win them all or you will bring everybody to a grinding halt. Maybe a little live and let live might be in order, a little win some and lose some might be in order, so that everyone has a chance to speak on issues that concern themselves and their constituents.

How do you think we look? We have used weeks and weeks of time on ourselves, on the subsidization of ourselves, the socialization of the political process, while some other people have some rather important problems out there that need resolution.

For years I had to plead for Grove City to come to this floor. It finally did. Even now we have AIDS legislation out there for those who are suffering and dying and in fear of this disease and it cannot come to the floor. But we discuss ourselves.

We have a budget problem that multiplies day after day but we are going to discuss ourselves.

We have a problem coming over the hill relative to the aging of this Nation, the elderly. But we want to talk about ourselves.

I think enough time has been spent upon ourselves. If we would go ahead and make the decisions that are imposed upon us by circumstances and by law we would not have to worry about how to finance campaigns. The American people would take care of it.

But they are disinterested in a rather lackluster performance and I do not blame them.

I am not prepared to go ahead and socialize politics in America, and I am not willing to subsidize mediocrity, and I am not willing to go ahead and enhance the power of the Federal Government which, on occasion, can run amok itself.

I spent the better part of my early years in this Senate revealing the facts of a government run amok, and participating in the decision that was against any sort of Federal financing of election campaigns. I revere that experience and that recommendation too much to come around to the year of 1988 and deny it all by virtue of this legislation.

I have great respect for those who are the authors of the legislation, those who have been pushing for it. But enough. But enough. Neither history nor the votes as they now sit on the floor of the U.S. Senate auger well for the passage of this legislation. Hopefully, we will be able to get on to other business.

Mr. President, there are some people I have a high respect for in this body. I am not engaging in either hyperbole or sarcasm but rather in the reality of the situation.

I think the distinguished Senator from Maine has been a great positive voice for good in this body. He has the courage of his convictions. He has expressed them many times on the floor. When I talk about mediocrity, I am afraid that too much of it associates with the body, but there are individual flashes of brilliance, and an example of that is the man who I understand will now speak to the issues involved.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Maine.

Mr. MITCHELL. Mr. President, I thank my friend and colleague, the distinguished Senator from Connecticut, for his kind words, and also for the very interesting and informative discussion in which he has engaged for the past 2 hours.

It is not easy for anyone to stay awake from 3 until 5 in the morning, but for those of us here who were present during the Senator's comments, he did keep us awake and, as always, he did so with a combination of intelligence, wit, and informed discussion.

I do not agree with the Senator's conclusions, but I respect his view and the orderly processes of mind which led him to it.

I do not believe the issue is public financing. I believe the issue is whether or not there will be limits on the amount spent in election campaigns for the Senate. Indeed, it is clear to anyone who reviews the pending legislation that the public financing aspect of it is limited to the absolute minimum necessary to permit the campaign spending limits to be constitutional within the framework established by the Supreme Court in the landmark case of Buckley versus Valeo.

The likelihood, indeed the probability, if not the absolute certainty, is that if this legislation were adopted there would be little or no public funds expended. And so while my distinguished colleague's argument was interesting, it did not go to what is the heart of the problem. That is made clear if one reviews just a few numbers.

Total campaign expenditures in elections for the Senate between 1972 and 1986 lie bare for all to see what is the crux of the problem before us.

In 1972, candidates for the U.S. Senate spent—and I will round out all numbers I use—$30 million; in 1974, $34 million; in 1976, $44 million; in 1978, $85 million; in 1980, $102 million; in 1982, $138 million; in 1984, $170 million; in 1986, $211 million. Thus, in the space of 14 years, there has been a sevenfold increase in total campaign expenditures for the U.S. Senate, from $30 million in 1972 to over $211 million in 1986. If that same rate of increase continues into the future, the first American election of the 21st century will see the expenditure of nearly $1 billion to $1.5 billion in campaigns for the Senate. It is that which must be checked. It is that which must be controlled. It is that which S. 2 will do. It is that which this debate is about.

Let no one be confused or deceived or misled by the rhetoric we have heard by opponents of this legislation over the past several days. There is at bottom one issue before us, whether the Members of this Senate wish and have the will to control the amount of money being spent to be elected to the Senate. There are very few public policy issues which have been debated as much as this one. The bill before us has been thoroughly considered by the Senate in 14 days of debate last year. The Senate has voted seven times to cut off debate on this legislation which a clear majority of the Senate supports. Seven times the opponents of campaign finance reform, themselves a minority of the Senate, have defeated the will of the majority by means of a filibuster. The American people should know that a majority of the Senate agrees with a majority of the American people that something must be done about the cost of Senate campaigns. But a willful, determined minority, using the weapon of the filibuster, succeeded in preventing the will of the majority of the American people and the will of the Senate from prevailing.

The bill has undergone major modifications on the floor to respond to every argument that opponents have raised about campaign finance reform. The willingness of the majority to modify the bill has exposed what is a fundamental objection of opponents. They simply do not want a limit on campaign spending. That is the issue now before the Senate. It is the only issue now before the Senate.

The method by which we finance campaigns for Federal office goes to the very essence of our system of government. While the authority of our Government is based on a written Constitution, the observance of Government power depends ultimately on the continuing trust of the people in a democracy.

If the American people do not have faith that their Government fairly represents them in the overall best interest of the Nation, the authority of Government will be undermined. There is no more certain way for Government to lose the public confidence and with the substance of its authority than for Government to appear to be holding to narrow, special, and favored interests separate from the common good.

Nowhere do we risk eroding public faith and undermining public confidence more than through the manner in which we finance election campaigns.

With each successive election cycle, the public and Members of Congress alike see a degeneration of the process. The system is out of control. The modern campaign for the Senate has too often become virtually a nonstop fundraising effort. It is a spectacle that erodes public faith both in election campaigns as contests based on issues and ultimately in the legislative product as well.

Each year, Senators must devote more and more time to financing campaigns for ourselves and for our colleagues. The process is disliked by all participants—Members of Congress on whose time fundraising imposes enormous demands and demeans them and their public office, voters who now wonder whether that small contribution or volunteer effort or even their vote means anything at all, and even the lobbyists themselves will force the bid against each other in an ever-rising cycle of contributions demands. Something must be done to reform the manner of raising funds and most importantly to control the costs of running for elective office in America. The legislation before us today offers a fair and effective solution which imposes no cost on the Treasury, gives no party an advantage over the other, and gives far greater opportunities for challengers to win elections.

The essential element of campaign finance reform, the ingredient which permits it to fairly be called reform, is an overall limit on the amount of money which can be spent to run for elective office. Unfortunately, the Supreme Court in 1976 decided in the case of Buckley versus Valeo that the Constitution does not permit Congress to impose mandatory spending limits on campaigns for Federal office. As one who has read many judicial opinions and has written a few, I believe the Supreme Court decision in Buckley versus Valeo to be one of the most poorly reasoned, loosely written, internally inconsistent judicial opinions which I have ever read. But under our system, it is the law of the land, and therefore, we must observe and obey it unless it can be changed through accepted procedures for doing so. But as a result of that decision, campaign spending limits can be imposed only on a voluntary basis. That leaves us with only one alternative—to provide public financing as an inducement to candidates to agree to overall spending limits.

Opponents of this legislation have consistently decried the use of any Federal funds, no matter how minor, no matter how speculative, in the Senate election process. That argument ignores the substantial Federal funds used in the Federal election process financed from the voluntary income tax checkoff.

In my opinion, the nominal funds which may be required to publicly finance Senate election campaigns would be well worth the cost if they restore even a measure of public confidence in our election system.

Nevertheless, in an attempt to meet, in good faith, every objection by opponents of this legislation, the bill has been changed to remove all public financing from Senate campaigns unless an opponent violates the spending limit in the law. Even this minimal cost, speculative in nature, would be fully financed by repealing certain preferential mailing rates for political parties. Therefore, the tears we have seen shed here for the taxpayers are crocodile tears, because this bill will not cost the taxpayers a single penny.

Opponents of the legislation have raised the false argument that it is somehow designed to keep the Democratic Party a majority in the Senate. This argument is based on the belief and the argument stated here many times that the public financing of Senate campaigns will protect incumbents. I hesitate to even legitimize these arguments by responding to them, but they are so fallacious, so contrary to the evidence, that they cannot go unanswered.

Public financing of congressional campaigns enjoys widespread and bipartisan public support, and it has for years. Senate Democrats, myself included, have worked for years to put in place a system of public financing that would limit spending for certain campaigns. We did this while we were the minority party in the Senate, and we continue now that we are the majority party. Why? Because public financing is in the national interest.

There are a number of Senators on the other side of the aisle who agree that they have been constrained by the leadership to stay away from this legislation—not because the bill would confer some special advantage on the Democratic Party, but because they perceive that it would limit an advantage the Republican Party now enjoys from its wealthier contributor base.

The argument that public financing of Senate campaigns is somehow going to protect incumbents is offered as a reason to oppose campaign finance reform, and it has been repeated here over and over again. In theory, that could be true if the limits on campaign spending were set so low that challengers could not have the ability to get their names across. But that is not the case with this legislation.

In many States the spending limits have been set so high that some observers have questioned whether the bill goes far enough to control the costs. I would like to see more stringent spending limits, but I recognize the importance of giving challengers sufficient funds to mount a challenge.

Under the current system, incumbents have an overwhelming advantage in raising campaign funds over their challengers. Every PAC in Washington can attest to that. They are simply reluctant to give contributions to challengers running against incumbents who vote almost every day on legislation affecting the interests of their PAC; and the numbers, the evidence, by which that has been so noticeably lacking in the arguments of the opponents of this legislation bear that out.

In the last Senate election, in 1986, incumbents raised almost twice as much as challengers in total campaign receipts. Incumbents raised almost 2½ times as much from PAC's as did challengers. Most of that PAC money was raised by candidates who are incumbent Members of the House of Representatives and thus more able to depend on PAC's than are challengers, who are not incumbents.

Of the 68 candidates for the Senate in the last election, 42 were sitting Members of either the Senate or the House. Thirty-nine of those forty-two incumbents raised more contributions from PAC's than would be permitted under this legislation.

By contrast, of the 26 challengers running for the Senate who were not Members of Congress, only 10 raised enough contributions from PAC's to be affected by the limits in this bill.

These numbers bear repeating. Stated in another way, this bill would have reduced the PAC contributions received by 93 percent of the incumbents running in the last election but would have limited the PAC contributions of only 30 percent of the challengers. The same story can be told comparing the spending limits in this bill to the actual amount of money spent in the 1986 elections by incumbent Members of the House and Senate, as compared to their challengers.

Of the 42 incumbents running for the Senate, 31 spent more than would be permitted by this legislation. In other words, 74 percent of the incumbents would have been limited by this bill in the amount they could spend. That is 3 out of 4. By contrast, only 6 of the 26 nonincumbent challengers, 23 percent, would have been limited by the bill. That is less than 1 in 4.

So, if the bill had been in effect in 1986, 3 out of 4 incumbents would have been limited in the amount they could have spent. Only 1 in 4 challengers would have been so limited.

The conclusion is inescapable: The spending limits in this legislation will not protect incumbents. Rather, the legislation will restore a balance to the election process by imposing far tougher limits on the spending of incumbents than on the spending of challengers.

I would like to make a prediction here: The Republican Members of the Senate have repeatedly argued, on and off the Senate floor, that if this bill is passed, they will become a permanent minority. I say that the surest guarantee that they will become a permanent minority is if this bill is not passed, because what we are seeing is the Democratic Party now with 54 percent of the Senate. After this election, it is likely to be somewhere between 55 percent and 60 percent.

Increasingly, incumbents, particularly Democratic incumbents, have been able to establish themselves and, through the enormous fundraising advantage of the incumbents, have virtually ensured their continued reelection. I predict that if this bill or something like it is not passed, there will not be a Republican majority in the U.S. Senate again in this century.

The singular feature of the current system of campaign finance, the most notable effect of the current system, is the enormous advantage it provides to incumbents over challengers, and that advantage will increase as the costs accelerate rapidly. Therefore, I believe that the members of the Republican Party are acting contrary to their actual interests.

That is not without precedent. Democrats did the same thing a decade ago. It stems from the almost institutional inability of political parties and other human institutions to see beyond their narrow immediate interests as defined by the recent past.

In the late 1970's, Democrats controlled the Presidency, the Senate, and the House. They regarded themselves as in a position of comparative advantage, and they were. They thought that comparative advantage would continue into the foreseeable future, but they were wrong. It did not.

Within a matter of just a few years, half a decade, the comparative advantage was lost, and Democrats found themselves in the minority. The refusal of the Democratic Party to look above its narrow political interests to the broader national interests a decade ago led them to make a grievous error for themselves and for the American people. By an ironic twist of history today, a decade later, Republicans are doing the same thing. Having learned nothing from history, they are intent upon repeating the mistakes of their opponents, because they are viewing this issue through the very narrow prism of their political self-interest. But they are handicapped, as were Democrats a decade ago, by the inability of humans to predict the future, by the almost unfailing regularity with which we expect the immediate past to be repeated in the immediate future, despite decades and centuries of history that tell us that the contrary is true.

So I appeal to my Republican colleagues to consider their true self interest; and if they do, they will support this legislation. I have no hope and expectation of persuading them, so I repeat my prediction: If this bill or something like it does not pass, we will see a Democratic majority in the Senate for the remainder of this century. Costs will escalate rapidly. The enormous advantage which incumbents possess in fundraising will increase, and a decade from now the error being made today will be made, as clear as the error of a decade ago by Democrats is today clear.

Opponents of campaign finance reform have proposed alternative legislation which they claim represents true reform. Those substitutes have been offered to give opponents what appears to be a positive alternative to campaign finance reform. One measure proposed by the Senators from Kentucky and Oregon purports to solve problems with the current system while, in fact, it would further liberalize current restrictions, create new loopholes and lead to increased spending.

Two provisions are essential to any meaningful campaign finance reform: limits on the overall amount of spending in campaigns, and limits on contributions that can be received from political action committees. The pending bill S. 2 would do both. The substitute offered by the Senators from Kentucky and Oregon would do neither.

The substitute purports to eliminate PAC contributions to candidates while requiring the full disclosure of soft money contributions. Neither claim is accurate.

The substitute would eliminate only direct contributions by PAC's to candidates. It would make lawful the bundling loophole that is increasingly being used to evade the present limits on PAC contributions. This loophole occurs when PAC's or other intermediaries collect checks from their members made payable to a particular candidate. The checks are then bundled and forwarded on to a candidate. Current law does not count the bundled contributions against the $5,000 contribution limit of the PAC.

If bundling is used today by candidates to evade the $5,000 per election contribution limit on PAC's in current law, it would be used to an even greater degree to evade the purported contribution ban in the McConnell-Packwood proposal. PAC's would change their method of making contributions but would not reduce of their giving. The McConnell-Packwood PAC restriction is made meaningless by the bundling loophole.

By contrast, S. 2 would close the bundling loophole by counting bundled contributions against the limit of the individual or committee, serving as the intermediary, which forwards the contributions to the candidate. The McConnell-Packwood bill purports to close this loophole but in fact it would legitimize the practice by requiring only that the bundled checks be made out directly to the payee.

If the substitute had any teeth—if it would actually result in the elimination of all PAC contributions to candidates—I believe it goes overboard. S. 2 does not eliminate PAC's. It does not suggest that PAC's are not a legitimate part of the campaign finance process—only that there should be limits on such contributions. It strikes a balance. S. 2 limits campaign spending and provides for public financing but the role of individual and PAC contributions is preserved.

There has been considerable discussion on this floor about the evils of soft money. To hear the Senators from Oregon and Kentucky speak, one would think they have proposed tough new restrictions on soft money which represent significant reform. In fact, they are proposing the exact opposite.

Soft money is money donated by individuals, PAC's, corporations, and labor organizations to State and national party committees which is used for certain exempt Federal election activities or non-Federal election activities. Such money is exempt from the contribution and expenditure limitations and restrictions of the present campaign finance laws.

The Packwood-McConnell purports to reform this area by requiring that all soft money contributions be reported to the FEC. In fact, it would open up major new loopholes for the national party committees by exempting from the law's restrictions their administrative-solicitation costs and by extending the present volunteer activity exemptions to the national party committees.

Their proposals would require that such contributions be disclosed. That is appropriate; S. 2 would do the same and, in fact, go much further by re-

quiring such disclosure for all party committees including those at the State, local and national level. The McConnell-Packwood proposal, however, would only require that soft money contributions to the national party committees be disclosed. This is artfully designed to minimize the impact of the proposal because the bulk of such contributions would flow to State party committees. Thus, under the substitute, most soft money would not be disclosed, and the result woud be the very opposite of what the proponents of the substitute say is there intention.

Another part of their proposal would open up a major new loophole by permitting soft money to fund the administrative and solicitation costs of political parties. In other words, for the first time a national political party, or a State or local committee of the party, could accept unlimited contributions from any corporate, labor or individual source to fund its general operations.

This would severely undermine the current contribution limits for individuals and PAC's, the flat ban on corporate funds in Federal campaigns that has existed since 1907, and a similar flat ban on labor union funds that dates back to 1947. These bans were enacted to reduce the potential for corruption posed by the direct use of corporate or labor union funds in Federal elections.

This proposal represents an unprecedented invitation to corporate and union support for party organizations, and it will further contribute to an accelerated level of spending through national party organizations for Federal election purposes. The disclosure requirement will not sanitize this major new loophole.

For the last several months there has been considerable debate about the merits of the proposal reported out of the Senate Rules Committee. The modified bill now before this body is an attempt to respond to every argument raised by the opponents. In my judgment, S. 2 is a good bill that will restore confidence in our election system by removing the taint of undue influence.

It is a carefully constructed proposal that represents many months of hard work to produce a balanced bill which is politically neutral.

Campaign finance reform enjoys widespread and bipartisan public support, and it has for years. Yet, there has been this filibuster on this bill. It is an attempt to prevent enactment of campaign finance reform even though a majority support its enactment.

Why? Not because the Members of this body aren't in agreement that the current system is out of control and badly in need of change. But because each of us perceives this issue through the prism of our personal interest or what we believe to be the interest of the political party of which we are Members. Rather, because the stakes are so great, there is a fear of change.

But this issue demands more. For once, we should put aside our self interest and act for the common good. We have an opportunity in this 100th Congress to restore public confidence in the election process. We ought not again let that opportunity pass.

Mr. President, during the course of the debate, opponents have made several arguments against S. 2. The organization, Common Cause, which has been a leader in the fight for campaign finance reform, recently distributed a publication identifying some of those arguments and responding to them. And I would like now to quote from that publication: Argument:

Taxpayers' dollars should not be used to pay for political campaigns, especially given the Federal deficit.

Response:

A system of campaign spending limits and public financing is the best investment our country can make in the health and integrity of our electoral and political processes. Nevertheless, the current version of S. 2 pending in the Senate has minimal costs and would in no significant way affect the Federal deficit.

Under S. 2, if both candidates agree to abide by spending limits, no public financing would be provided. Candidates who accept spending limits would be eligible for reduced mailing rates; these benefits would be paid for by repealing preferential mailing rates for political parties. The public financing provisions of S. 2 are, as the Washington Post said, "an insurance policy" to protect candidates from free-spending opponents. They only come into play if one candidate agrees to spending limits and the candidate's opponent does not accept spending limits and then makes expenditures in excess of the limits.

The original version of S. 2 would have cost $50 million a year—less than the amount the military spends on marching bands. The new version will cost far less. Exact estimates of the cost of S. 2 are not available since there is no way of knowing how many candidates will become eligible for public funds. However, the experience under the Presidential campaign finance system, on which S. 2 is based, shows that 47 of 48 major party candidates have agreed to spending limits since the system became law.

If a similar percentage of Senate candidates agreed to the spending limits, the costs of the public financing provisions would be minimal.

Mr. President, I digress from the publication from which I am quoting to respond further to the repeated suggestion made here that the Presidential campaign finance system is a failure and, therefore, ought not to be repeated in Senate campaigns.

First, I strongly disagree with the assertion that the system used to finance Presidential campaigns is a failure, but I note significantly that all of the arguments made against it are based upon the experience in the Presidential primary process in which one candidate must compete in several States and the problems that arise in enforcing the law relate primarily to allocation of limits to the various States.

There has been very little criticism of the general election system used in Presidential campaigns. The system suggested in S. 2 is more closely analogous to that system than it is to the primary system in Presidential campaigns.

So I think the criticism is not well taken in two respects: first, its characterization of the Presidential system as a failure is incorrect. Although that primary system clearly has deficiencies which must be corrected, I do not believe it can thoroughly be characterized as a failure.

And, second, because the more close analogy is between general election campaigns for the Presidency and this bill.

I return now to the Common Cause document citing opponent arguments to S. 2 and responses.

Argument: S. 2 is an incumbent's protection bill. Spending limits will prevent challengers from mounting a viable campaign.

Answer: It is the current system—not the reforms in S. 2—which give congressional incumbents an enormous advantage over their opponents. Under the current system, incumbents substantially outraise and outspend challengers. In the 1986 elections, Senate incumbents as a group spent $92 million, while challengers as a group spent only $49 million. These same Senate incumbents received $25 million from PACs compared with the $11 million that PACs gave to Senate challengers. In the 1986 election, the average Senate winner spent $3 million, up nearly 500 percent from 10 years earlier.

In the 1986 House races, incumbents outspent challengers by $121 million to $38 million and PACs gave incumbents $65.5 million compared to the $9 million they gave to challengers.

Today it is incumbents who have a powerful base from which to launch high-profile fundraising efforts to raise the enormous sums being spent on campaigns. For most challengers, the battle is to raise enough money to even approach the expenditures allowed under S. 2, while many incumbents—absent the spending limits—would be able to spend far in excess of these limits.

Opponents of the 1974 legislation establishing spending limits in presidential campaigns advanced the same "incumbent protection" arguments against expenditure limits being made today, yet in two of the three presidential elections under this system, challengers defeated incumbents—the first incumbent presidents to be defeated since 1932.

The S. 2 limits on aggregate PAC contributions also would reduce significantly the advantages incumbents have under the current system since PACs give so disproportionately to incumbents. Had S. 2 been in effect in the 1986 elections, for example, PAC contributions to Senate candidates would have been cut by two-thirds, from $45 million to $16 million, with most of the cuts made in PAC contributions to incumbents.

Argument: Spending limits are a partisan attempt by Democrats to disadvantage Republicans, particularly in the South.

Answer: The spending limits in S. 2 would allow both Republicans and Democrats, challengers and incumbents, to run competitive elections. The argument that the bill would disadvantage Republicans in the South is not supported by the evidence—indeed, there is evidence to the contrary.

In 1980, four Southern Republican Senate candidates—all non-incumbents—won election to the Senate while spending far less than the limits in S. 2, even when inflation is taken into account. In 1986, three of those Senators sought re-election as incumbents. Each Senator spent substantially more than the S. 2 limits and each Senator lost.

More importantly, the "Southern Republican" argument is spurious. It is an argument which essentially tells the American people that the nation must tolerate and preserve the present corrupt campaign financing system in order to allow Republican candidates to make unlimited expenditures in Southern states.

If I may again digress from this document, once again we see that the arguments advanced by the opponents of this bill are unsupported by any evidence, and where there is evidence, where there has been experience, where empirical data is available, without exception it contradicts the assertion of the opponents of this legislation and supports the need for S. 2.

I return now to conclude this document.

Argument: S. 2 doesn't cut PAC contributions.

Answer: This statement is patently untrue. S. 2 would establish an aggregate limit on the total amount of PAC contributions a candidate could accept. Had S. 2 been in effect in the 1986 election PAC contributions to Senate candidates, as noted above, would have been dramatically cut, from $45 million to $16 million, as a result of the aggregate PAC limit.

By contrast, alternative campaign finance bills introduced in the Senate, including one authored by Minority Leader Robert Dole (R-KS), would have only a minimal impact on the PAC problem. These bills do not contain an aggregate PAC limit, instead, they provide for cuts in what an individual PAC can contribute. Senator Dole's bill, for example, would reduce what an individual PAC could contribute from $5,000 to $3,000 per election. Had Senator Dole's proposal, S. 1672, been in effect in the 1986 Senate election, it would have cut overall PAC contributions from $45 to $40 million, compared to the S. 2 cut from $45 to $16 million.

Argument: S. 2 does not deal with the "soft money" problem.

It is simply not correct that S. 2 does not deal with the soft money problem. Section 5(a) of S. 2 requires the disclosure of the receipt and expenditure of soft money by national, state and local political parties, as well as by PACs. This provision is a very important step which—for the first time—would subject these soft money expenditures to public scrutiny.

Mr. President, I note the presence on the floor of my friend and distinguished colleague from Louisiana. I will, in a moment, yield the floor.

Before doing so, Mr. President, I want to repeat what I said at the outset. The issue before the Senate, the only substantial issue before the Senate, is whether there are to be any limits at all on the amount of money spent in election campaigns for the U.S. Senate. All of the other arguments raised by the opponents are purely smokescreens intended to obscure the central issue, to divert public attention away from what is the crux of the problem facing us.

I will not repeat all the figures I cited at the outset, but merely summarize them by noting that in 1972 total campaign expenditures in elections for the U.S. Senate were $30 million. Seven elections later, in 1986, the total was $211 million. Where will it end? How will it stop?

The answer is, unless we pass this bill, there is no end, there is no stop in sight.

Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I will start by congratulating the distinguished Senator from Maine for the time he has spent on the floor and the presentation of his arguments. He speaks not as a person who is merely engaged in an esoteric discussion on this legislation; he speaks as a person who had been in charge in the last campaign cycle of various difficult and I would say sometimes thankless jobs of having to go out into the field and raise the funds necessary to conduct not only his reelection but to help assist, as the chairman of the Senate Campaign Committee, to raise money for all the Democratic candidates in the last cycle.

I would say to the distinguished Presiding Officer that the Senator from Louisiana has benefited from this chore and the endless hours of help and assistance in raising money that the Senator from Maine provided me and so many other Members of my class of the 100th Congress.

So when he speaks on campaign reforms, he knows of wherein he speaks. His tireless effort to try to bring this message to the people of the United States is one that we all owe him a deep debt of gratitude for. We thank him for the completion of his task.

A colleague of ours yesterday told me of a story of coming to an early morning breakfast yesterday morning. He walked into that breakfast and he was weary-eyed and red-eyed and looking somewhat disheveled. And he told in response to what happened to the group he was speaking to at an 8 o'clock breakfast that he had been up all night on the Senate floor. This group of Washingtonians who make their living here in the city by following the work of the House and the Senate said, "What are you doing up all night?"

He said, "We are in filibuster."

They said, "What are you filibustering?"

He said, "We are filibustering campaign reform."

My colleague was astounded that this group of distinguished Washingtonians did not even know what we are doing over here.

What we are doing over here is trying to bring a message to the people of the United States that something is wrong in Washington, something is wrong in how we get here. And that is really what we have been talking about overnight and early this morning.

So my colleague made the comment that, well, it is a Washington issue. Nobody outside of the beltway knows what in the world you folks are talking about and most of them do not care what you are talking about.

To a certain degree, that is very true. People in Louisiana, I guess, are concerned about agricultural problems, farmers losing their family farms, with very little hope of optimism about things improving in the very near future. People in the oil and gas industry are concerned about the literally thousands of Louisianans that have had to move to Atlanta, to Memphis, and to Nashville and have had to leave our State because this administration has no energy policy.

The average small business owner is worried about bankruptcies. People who are engaged in banking and savings and loan institutions are worried about the record number of defaults.

So, yes, it is true that there is not a tremendous lying awake at night in Louisiana agonizing over the question whether the U.S. Senate is going to give us a campaign reform bill titled S. 2. There is not a lot of interest.

I dare say that most States like Louisiana, my home State, are finding the same thing. There is not a tremendous amount of mail or telephone calls or telegrams or do we have any lobbyists sitting outside of our offices urging us to get on with this crucial piece of legislation.

The new Governor of Louisiana who takes office in a couple of weeks said during the campaign that if in life we are what we eat then in politics we are what we get our money from.

I think that there is a certain amount of truth to that, and one of the reasons that I think this bill is so critically important is because money has become a qualification for holding public office.

You know if you look at the Constitution, or the rules of the House or the rules of the Senate or even indeed, of course, the qualifications that our Founding Fathers put into the Constitution as being the qualifications to hold public office, guess what you do not find? What you do find is very clear, age limitation, you have to be a certain age, 25 or 30, to be in the House of Representatives or to be in

the U.S. Senate. You would assume that among those qualifications, including being a citizen born in this country for the Presidency, assuming other qualifications that our forefathers were thinking about, you would think the qualifications of talent, education, of integrity certainly of honesty, but nowhere in any of those qualifications that I have ever looked at do I ever see a qualification or a requirement that says you have to raise a lot of money.

But is there a Member of this body or of the House of Representatives or of the Presidency of the United States that would not tell you, having been elected, that one of the qualifications today is in fact the ability to raise money?

I know when I considered running for this seat after the retirement of our distinguished former colleague, the former senior Senator from the State of Louisiana, Russell Long, the first thing that I had to consider and the very first thing that professionals in this business came to me and asked was, "Can you raise the money? Do you have access to huge amounts of money that it is going to take to run a Statewide campaign in the State of Louisiana, a very active political State?" And my first task in considering whether I would have the opportunity one day to serve in the U.S. Senate was not whether I was old enough, constitutionally or whether I was smart enough to handle the job, whether I was intelligent enough to be able to handle the complicated issues before the Senate or whether I had any ability to legislate, which is the duty of this very august body. The first question I had to decide was how I was going to raise enough money, how much of my life did I want to commit, not to reading about how to write and author bills, but how much of my life was I going to commit in a campaign that lasted 676 days. How much of my life and family life was I going to have to commit to raising enough money before I would be able to have the opportunity to exercise any talent or ability or education to be a good Member of the U.S. Senate.

I was told in some of my first meetings that, well, you are going to have to raise about $8,000 a day—I think that is what the figure was—in order to be a Member of the U.S. Senate. I said that is ridiculous. You do not have to do something like that. I cannot afford it. How am I in a State that is literally in a depression with 13 percent unemployment going to raise $8,000 a day in order to be a Member of the U.S. Senate?

I was told, well, you have to get out of Louisiana and, of course, they were right.

So I found myself, Mr. President, during my early stages of our campaign in California, New York, Chicago, and Miami, and people would say, well, you are not going to get elected in those States, in those cities. What are you doing? Why are you all over the United States when you are supposed to be running and tell the people of Louisiana why you could be a good U.S. Senator and Representative the interests of our State in this body?

The reason I was in all of those cities was because I was not independently wealthy. I did not have access to millions and millions of dollars of funds. So I have to travel throughout the United States like a person with a tin cup. I really felt like a person who passes the collection basket in church as I traveled to all these cities and met with people who are very sincere and thank goodness for them. I had to go into hotels and living rooms and fancy homes all over the United States and tell these people that I needed them to give me money so that I could go back to Louisiana and campaign and ask the people of Louisiana to support me.

My opponent did the same thing, a good fellow who I served in the House with.

It was a well-run campaign, I think, on both sides. We would be criss-crossing the United States, running into each other in cities that had very little to do with my home State of Louisiana, doing the same thing, raising money, running around the United States with a tin cup in our hand saying that we needed money so that I could be elected to the U.S. Senate.

Why should money be the main criteria is the point I am making. There is a message here and the reason we are here at this ridiculous hour and have been here all night with people, the officers of the Senate and the employees of the Senate, weary as we are, more so, because they have not been relieved, why are we here, because like my colleague when we walked into the room at 8 o'clock, what are you doing had no idea. Had we been debating the the INF Treaty or a jobs bill, or a major health legislation, I think people would say, that is really something that the U.S. Senate is doing, trying to force the issue to the American public.

This issue, Mr. President, I would say is probably more important than all of those issues because this issue determines to a large extent our opinions, our thoughts, and our ideas on all of those other subjects that we consider here in the U.S. Senate.

Politicians are where we get our money from. I think that the majority leader, Senator BYRD, in insisting that this debate go on is trying to show to the American public that there indeed is something wrong with the system that requires a candidate to leave his State and to travel all over the country with a tin cup in his hand in order that he or she may be elected to this body and provide the service that our constituents expect.

People do not understand, I think, how bad it is. People do not understand how much of our time is spent not legislating, not reading up on critical issues of the day, but becoming a beggar of sorts. How many times are we as candidates as we travel around raising money for the first time asked what committee are you going to be on, and there are various committees that I would dare say any one of us could rank as the easiest committee to serve on as far as raising money. If you are on some of the committees in the Senate or in the House of Representatives, you have heard many, many times, "Well, you never have to worry about raising any money, why don't you get on that committee? Boy, that is the committee to raise the money on."

Is that the purpose of the committees in the U.S. Senate and the House of Representatives, to see how much money we can raise? Of course not.

That is how tainted, I would say, however, that the system has become.

When I ran, my opponent outspent me 2 to 1. The parameters of the spending were like $6 million to $3 million.

The very fact in the beginning of the campaign that my opponent was able to raise so much more money than I did became a credibility factor. I could go out and argue, man, I am smarter than that guy, I am more talented than this guy. Certainly all of this is open for debate. But I could make those arguments. But the most profound argument he would make was that he had twice as much money and how could BREAUX win because this other fellow was so well financed?

The point I am trying to make is what in the world does the ability to raise money, the millions of dollars that are now being required before you could even run, what does that ability have with the real qualifications to serve in this distinguished body, the qualifications of talent, education, integrity, honesty, and ability to understand the legislative process? Those are the qualifications by which we should be judged. Those are the qualifications by which our people should select the best and the brightest, not the richest or the wealthiest. And that is what this legislation tries to do.

I said time after time during my campaign that this is not an auction. It is an election. It is not a question of who has the strongest financial statement, or who has the best bottom line as far as money is concerned. It is not an auction. It should be an election process. That is what S. 2 attempts to do.

It attempts to bring it back to an election process and get away from the idea that we are only going to be successful if we can raise millions and billions of dollars.

The process is broke. The process needs fixing.

I am interested in the arguments from our colleagues in the minority party. If you would listen to what they are trying to get outside of this Chamber to the American people, I would say that what they are trying to get out is that this legislation is an attempt by the Democrats to destroy the Republican Party.

Now, I was interested in that argument, and I said, you know, what this legislation must have if their argument is true. It must be that the bill only applies to Republicans, and lo and behold, I looked up the legislation and it does not just apply to Republicans. The same rules, the same regulations, the same spending limitations, the same everything applies to the Members on this side of the aisle as it applies to Members on that side of the aisle. Republicans are treated exactly like Democrats and Democrats are treated exactly like Republicans and independents would be treated exactly like all of the rest of us. The legislation is across the board. There is no different treatment of the Republican Party.

Our Republican colleagues who make the argument, and I think they have done so well, that we spend too much money. Well then why should they be against an effort that tries to put some reasonableness back into the process of running elections?

What do they fear with this legislation that treats us exactly as it treats them with regard to spending limitations? There is nothing sinister about this legislation in that sense. We establish aggregate limits for PAC contributions. We do not eliminate PAC contributions in this legislation. It establishes for Republicans and for Democrats aggregate limits on the total amount of contributions which candidates can accept from PAC's.

I am one person who participated in the process as aggressively as I possibly could and will continue to do so. I do not think that PAC's are inherently wrong. PAC's are people. PAC's are citizens of this country who, through the political action committee process, perhaps for the first time in their lives have been able to contribute to candidates who agree with their philosophy of government. I certainly see nothing wrong in accepting $1,000 from an agricultural political action committee for instance any more than accepting $1,000 from some individual person who has an interest in agricultural matters before this Congress. In fact, if you want to make the argument of money influencing votes and people trying to buy access by money, can you not make a legitimate argument that would say that a Member of Congress is going to remember more the individual that walks up to him and says, "Here, Senator, I would like to give you $1,000 and I want you to do what is right on agricultural matters when they come up before the Senate. I am a farmer in South Louisiana." I am going to remember that person probably more than I am going to remember the XYZ PAC that sends me a contribution from some innocuous post office box thousands of miles away from Louisiana. I am probably not going to see that person. But I will be contacted probably by the individual who gives me the $1,000.

So if the argument is influence, I see the better side of the argument, that there is certainly nothing wrong with the PAC's contribution. It has allowed millions of people to become involved in the process for the first time. I think that is good.

This bill does not eliminate political action committees. But it tries to put some restraint on them. They should not become the total determining factor in raising money for political elections. But they should not be eliminated and excluded.

To our colleagues on the other side who work with PAC's very well, as some of us on this side do, I would say this legislation clearly protects the political action committees and what they can do, but it also tries to put some limits. Let us be reasonable. The proliferation in growth of PAC's is growing even faster than the Federal deficit, I would say, which is not a small achievement. So what we have tried to do with this legislation is to put some restraints, and I would say the restraints are reasonable.

For Senate candidates, limits would vary on the size of the State of course; again a degree of fairness. Candidates in California would not be subject to the same limits as candidates in Rhode Island. It makes sense; fairness, nothing wrong with that.

Are we giving PAC's a limit that is reasonable? Good heavens. This is what we have here. For Senate candidates the limits would vary on the size of the State ranging from $190,000 for the smaller States to $825,000 in larger States.

The House candidates' limit would be $100,000; $825,000 from PAC's, is that not enough to make a dent and input and be still involved in the process? This $825,000 is not an insignificant sum of money. And I think that, or at least should be, is an acceptable amount to consider a fair amount.

Some people have said, well, you know, out there we should not have people with millions and millions just to be able to come in and purchase a Senate seat or a House seat. I agree with that. These seats are not for sale and should not be. Persons of tremendous individual wealth, legal gain, should not have an undue advantage over other candidates. So the legislation attempts to address that by establishing a limit on campaign spending and the use of personal wealth. I think that is good.

Spending limits. For our colleagues on the other side who have said time and again we believe there should be some spending limits, the bill does that in exactly the same way for Republicans as well as Democrats. It is not an effort by establishing spending limits not to pertain to both sides of the aisle. That certainly does not reflect an effort to eliminate the Republican Party. I do not see how they can make that argument.

But limits we have in general elections again would vary according to the size of the State. It makes sense to me. I think it should make sense to everyone. The smallest States have a spending limit of $950,000 and $5.5 million in the largest State. A person that does spend $5.5 million and cannot get his message out, I would suggest that there is something wrong with the message, not that there is not enough money to get that message out.

I dare say, give anybody in this Chamber $5.5 million to spend as far as a ceiling, and the talent that I have seen in this body on both sides of the aisle will allow that candidate to have ample funds plus to get his or her message out to the American people, $5.5 million being the cap, of course, for the largest States.

That is for the general election. The spending limit for primary elections would go all the way up to $2.75 million for the largest States in the primary election plus an additional $5.5 million in the general election. I would say that a sum approaching $8 million is enough to get your message out even in the largest State in the United States of America.

Candidates are restricted under the legislation to $20,000 in personal funds to finance their election. That would not be a problem for me, I know, and probably not for the distinguished Presiding Officer. I am not a person of tremendous personal wealth. I do not have any problem with having a limitation on my own spending. That, of course, is not the reason to say that it is a good idea. I think it is a good idea because people in this country would like to see everybody represented.

The Senate and the House should not become a club of millionaires, not to say that it is moving in that direction, but certainly there is an incredible advantage, I would say, to a person of immense personal wealth when he or she says, "I will use and spend whatever it takes to buy this seat." The message is that seat is not for sale. And the steps that have been

taken in this legislation to try and put a sense of fairness into the process I think merits our favorable consideration and strong support.

Candidates who agree to abide by these rules, Republicans and Democrats alike, get some other assistance that helps them deliver the message because the message is what we should be judged by, not by the balance sheet. And what this bill provides is that if you are a candidate and agree to these spending limits we are going to make it easier to run your campaign, to get the message out so that you do not have to run around the country with a tin cup.

Candidates who agree to abide by the spending limit and to limit their own personal wealth are entitled and would be eligible for substantial reductions in mailing rates, and the lowest unit rates for television and radio advertising. That is an important feature I would say to this legislation. What that simply means is when we put this new set of rules into being which affect Republicans and Democrats equally, that in order to encourage candidates to abide by those limits we are going to sweeten the pot by making it easier for them to get their message to the people.

Those who say "I don't like spending limits" I will answer that, "Well, if you agree to abide by them you will have more time to spend addressing the issues, and we are going to make it cheaper and less expensive for you to get your message to all of the people." How and the way we do it by requiring in the legislation that there be a substantial reduction in mailing rates and the lowest unit rate for television and radio advertising, the principal medium by which we get our message delivered, which is radio and television by and large.

So we are encouraging people to follow the law and to participate in the spending reductions and restrictions by saying we are going to give you a little extra. And that little extra is having to pay a lower rate for television. So you have more time to get your message across and in essence will be getting a bigger bang for your buck.

I think that is a very important feature of the legislation.

It provides that public funds would be available. This is a controversial part of the legislation, and I had people to say "You know, I support those spending limits and I think we are having to spend too much money and I think the system really needs to be fixed and, man, I want to have it fixed but I sure don't like that public financing."

And I want to say this morning that that has been a portion of the bill that has given me a little concern myself. I took a poll in Louisiana, and I daresay many States are probably the same, that said, "Would you like your tax dollars to be spent to help political candidates?" "Not a good idea," I would think that many people would respond in a time of $1 trillion, long-term national deficits, in a time when the budget continues to be so far out of balance, at a time when States and Federal legislative bodies are having to consider and to discuss tax increases and revenue increases. To pose the general question, "Do you want to open up the Treasury to candidates?" The answer generally comes back from the people that I represent "No." But that is only a part of the question. The question is more detailed than just do you want to open up the Treasury because this bill certainly does not, will not, cannot and should not do that.

The bill provides that public funds would be made available to candidates who agree to campaign spending limits if their opponents refused to accept the spending limits, and actually make expenditures or raise funds which exceed the spending limits. I bet you that if this bill went into effect that we could see a changed way of doing business in America with regard to the industry of getting elected to public office. I say it is an industry because a multimillion dollar effort is indeed a business. When you pay thousands of dollars to people to tell you how to look and talk on television, when you pay thousands of dollars to people to tell you how to deliver your message, indeed it is an industry. And I would say that the industry of getting elected has dramatically changed because I would predict and I think many will join me in this prediction that when candidates agree to publicly say "I am willing to limit my spending under the Federal law" there is not going to be a lot of your opponents who are going to say "The heck with it, I am going to do what I want to do regardless of any standards that the Congress has adopted."

What that will mean is that if all candidates agree to abide by the spending limits under this legislation there indeed is no, repeat, no public funding. There is no crack in the door of the wall surrounding the Treasury. There is no outflowing of public funds in any sense whatsoever if indeed all the candidates abide by the spending limits. I predict that is what is going to happen.

I tell you what. I would love to have an opponent that would run against me in a Federal election with this rule being in effect that would say I am going to spend whatever I want, I am not going to abide by the standards, the principles and the philosophy behind the Campaign Reform Act pertaining to this legislation. I would need to do a lot more than that or do a lot more than have the opportunity to keep providing information to the people of my State that this candidate refuses to abide by these set of standards and principles that have been agreed to by the majority of the Members of the House and the Senate that both of us are trying to serve with.

So I would predict that when the legislation goes into effect, there will be minimum, if any, public financing involvement, because I think the candidates will agree to abide by these limitations. It says very clearly that public funds will be made available to candidates who agree to the campaign spending limits if, if, if, and only if, their opponents refuse to accept the spending limits and in fact go out and spend more.

So for those who say it is a raid on the Treasury, I would say that there are protections built in here. To those who say that it is a raid on the Treasury, I would remind them that the money would come only from those in this country who are concerned enough about the process to voluntarily check off on their income tax forms a box that allows $1 of their contribution to go to public financing of elections.

Those who argue eloquently against public financing, some of them are the biggest beneficiaries in the Presidential election of public financing. There is nothing wrong with that. But I think it is a little bit inconsistent to say how terrible the system is and to be one of the first to stand in line to participate in the system. If there is a matter of principle here, should not they say, "I will not participate in something that I disagree with so totally"?

I think that is a good question. I think that is a question that must be asked, because if the system is so contrary to their personal beliefs and the system of public financing is so contrary to their public beliefs, eloquently stated, why, then, do they so eagerly seek to participate in a system which they so loudly condemn? Is there not a question of priority? Is there not a question of principle here as far as how we conduct our elections?

So I would say that we have restricted and put safeguards on public financing that I think are solid. I think that they are good. They certainly have addressed my concerns about being an opening of the Treasury to just shovel money out to anybody who wants to run. That is not the case. That is not the case at all. There are very strict requirements with regard to public financing. I would predict that it would be extremely limited because all candidates would abide by the spending limitations. And if all candidates abide by the spending limitations contained in this bill, there is in fact no public financing at all.

The legislation also protects against independent expenditures by improved

reporting requirements and a new and tighter definition of when an expenditure is in fact independent. Candidates who agree to the spending limits would also receive matching payments to enable them to respond to significant independent expenditures made in opposition to them or in support of their opponents.

Independent expenditures are something that we have to deal with very carefully because there is a first amendment that is the law of this land that protects freedom of speech. And it is inappropriate, improper, and probably illegal for the Congress of the United States to say to citizens of this country that they cannot speak freely for candidates for public office. That is a right of free speech, a very essential right of free speech. There is probably no clearer right of free speech than the right to speak in the political process for candidates that we happen to think are important.

One of the reasons we left Europe to locate in this country, and had a revolution for it so that we could stand up and freely speak in the political process without having the fear of being run off to a deep dark dungeon somewhere for the rest of your life, was you could participate. If you did not like the leader, you could say that; stand up on the street corner and shout from the highest building that you did not like who was in charge. That is what free speech is all about. So when we try and limit the ability to speak freely in the political process, we have to do so very carefully.

So we are protecting in this legislation clearly the right of independent expenditures but we sure are trying to prevent somebody who is willing to spend millions and millions of their money just to constantly argue against a candidate for public office. The protections are very clear.

The bill is also self-financing. That means we offset a modest cost increase by repealing certain preferential mailing rates for political parties. I think that is important. To those who would argue this is going to be a big spending bill, the argument to counter that is very clear: it is self-financing. I am not talking about major authorizations or appropriations to carry out this bill. It is self-financing by its very nature.

It requires the disclosure of soft money expenditures by PAC's and political parties. Boy, that is a good one. You are looking at a person who knows what soft money is. I never got hit so hard by something that was supposed to be soft as I did during my campaign, I assure you. And getting hit by soft money can be a very hard and difficult experience.

Soft money, for people outside the beltway, is simply money that is undisclosed, money that is slipped through the night, through dark channels, that you have to watch being spent against you on television.

You know, you think we have public disclosure. And if it is money given to me as a candidate, it is publicly disclosed. But, boy, this little category called soft money can really be a real torpedo to a candidate in the sense that in my race I would dare say that billions—millions, not hundreds, not thousands, but millions—of dollars were spent in this category of soft money; money that was raised throughout the United States that no one in the public knows where it came from or who is responsible for it; money that was given to the State party, the Republican Party, that was used to finance their political activities which were aimed at and geared to defeating me.

The Louisiana Democratic Party, I would say, in order to be completely fair, also sought and received and spent this "soft money." Not nearly as much; not nearly as much. I wish we had the ability to try and equate the amount of soft money being spent. But let me tell you what we were able to do paled in comparison to what the Republican Party did. The point is that this legislation addresses that tremendous potential for abuse and in fact actual abuse of the process. Because it is wrong to have money sneaked through the night, unreported, coming from where we have no idea to be used in an election process that we say should be public and we should know where the money is coming from.

This legislation addresses the soft money issue and does so by requiring the disclosure of the soft money expenditures by the political action committees and by the political parties—a major improvement, addressing something that was a major cause for legitimate concern by anybody interested in improving the process.

The legislation also closes the bundling loophole in the current law. Now, bundling is a system whereby we encourage people to give to candidates, whereby they can exceed the limitations on their contribution amounts. This legislation closes the bundling loophole by requiring that the contributions made directly or indirectly to a candidate through a political action committee or some other conduit be counted toward that contributor's limitations on how much they can contribute, as well as the contribution limit of the original contributor. It is an abuse. It is not right. It violates all principles of restricting how much an individual can give through the use of this bundling process.

You know we write a rule or a bill in Congress and the next day there are literally hundreds of attorneys, accountants, CPA's in this city that are looking for legitimate ways to get around what we have done the day before. And, boy, are they effective. They are talented. They are paid extremely well to find the loops and the loopholes and the ways to do something the law was trying to do or to say that you cannot do. And bundling is one of those little carved out exceptions whereby they figured, "Hey, they missed this one. We can get somebody to give a whole lot more money than the law on its face says they can give by using the bundling process."

So, yes, this is one of those cracks in the wall or holes in the dike, if you will, that needs to be plugged up. And this legislation does that with regard to the bundling process.

So all in all I would say that the package that has been put together by our distinguished authors, that this package that has been compromised and compromised and compromised in order to meet the arguments of the Members of the other party, is a good piece of legislation.

Is it a piece of legislation that is being debated outside of the Halls of Congress? Not really. Is it being debated within the corporate offices and labor halls within the Washington community? Of course it is.

If I walked down the streets of the average town in my home State and ask people how they feel about S. 2, I am not going to get a lot of people telling me how they feel. It is not that type of issue. It is not an emotional issue, although I think it should be because we are talking about the way we elect men and women to run this country. Is that not something that we should be emotional about? I think so.

So the effort here is to try to create the public perception that we are correctly trying to correct a cancer that is getting worse and worse on the system of American politics; that we are trying in this manner to try to provide medication, if you will, to correct a sickness, and the sickness is the money that has been added as a requirement to serve in public office.

If you ask the question of the people back home do they support S. 2, they will say, "What is it?" If you tell them it is campaign reform, they will say, "Yes," because who is against reform? If you ask them if this is the most important top five issues that they are concerned about, they will probably tell you no. But if they understood, and as they understand more through the process of this debate and through the process of education that we are trying to provide by these long and tedious discussions, I think that the American people will demand that we do something to change the system; that when they totally understand what is now at the heart of getting elected—money—that they will march to Washington and say, "Do a better job in reforming the system than you

have;" that they will sit outside of your offices and lobby as hard for campaign reform as they lobby for farm programs, education programs, health and welfare programs, and all of the other endeavors that we are constantly being lobbied for by our constituents and the people of this country.

I served this year and would note that the Presiding Officer serves with me on the Democratic Senate Campaign Committee. It is a privilege and an honor and I am pleased to do it. I am pleased to try and help make it easier for the challengers, like I was in 1986, to have the funds to deliver their message. But it should not be that the message will be delivered by the person who has the most money. It should not be that the person who gains access to this Chamber as a Member is the person had the best balance sheet of all of the candidates.

As a member of the Democratic Senate Campaign Committee, I and all of us are asked to travel throughout the United State, putting on these fundraisers—and thank God there are people there who are willing to contribute their time and their effort and their talents to doing it. But why should we be required as we are to travel all over the United States and meet with people we barely know and impose upon their generosity, so that we have the privilege of serving in this body? I think that is wrong.

There are more groups for which, every day, I sign my signature to have a fundraiser for someone in this city than I can keep track of. It is like alphabet soup and it is like that on both sides of the aisle. There is the RNC on their side; there is the DNC here; there is the DSCC here; there is the Republican counterpart over there. There is the DCCC on the House side. There is probably the RCCC on the House side.

There are friends of this and friends of that; supporters of this and supporters of that. At the bottom line, it is all a funnel. At the bottom line, it is all a big basket that we carry around with these initials saying: throw the money in here and we will filter it down through the funnel so that some person may have the right and privilege of serving in the United States Senate or the House of Representatives.

Is this a novel approach that we are advocating today? Is this system of campaign reform and campaign financing that we are asking our colleagues on the Republican side of the aisle to support a radical or an extreme, untested procedure that we are asking them to blindly accept? The answer to that question is very clear. No, it is not. It has already been tried and it has already been tested and it is in effect. That is how we run our Presidential elections. The standard has already been tested and it is working.

Is there any Presidential candidate, Democratic, Republican, or Independent, who has run under the system of public financing for Presidential elections who has ever stood up, one time in their campaigns, in this election cycle or in the last election cycle when the law was in effect, and said that this system does not allow me to get my message out? The answer to that is no.

The candidates who have run for President, Republicans and Democrats alike, have agreed with the system because they have participated in it. They all are seeking limited public financing from a voluntary checkoff. They all have agreed to abide by spending limitations in order that they have a test of ideas, a contest of intelligence and ability and persuasiveness rather than a test of money.

The system that was put into place for Presidential candidates is working. The system that we are asking our Republican colleagues to accept today is one that is patterned after the system that we have in effect for the Presidential candidates, a tried and tested and proven system of running our election campaigns in a different manner, a manner that truly brings back a test and a contest of ideas, rather than a test merely of who can raise the most money.

If I have to predict the outcome of this effort I will say that we will probably not get cloture when we vote to cut off the filibuster of the Republican Party, when we vote tomorrow. And that will be a defeat. But I think that it will be a defeat only in the sense of losing a skirmish or losing one of the battles. But I will say that we will not lose the war, because while we may lose the cloture vote, as Republican Members say that we do not want to bring this legislation up, I would say that we have made great strides in winning the larger question and that is the war of trying to do something about campaign reform.

I say that because I think gradually the people of America are beginning to understand a little about the cancer that is engulfing the Congress of the United States, a cancer that requires us to spend more time raising money than thinking of new ideas, a cancer that requires us to travel throughout the United States in areas that we do not directly represent rather than spending the time with the constituents who have problems that are our first priority.

So, while the cloture vote may go down despite the great efforts of so many who have been far more involved than I, while we may not win that cloture vote, I think we have gone a long way toward winning the ultimate war which is that elections should be a contest of ideas and thoughts and standards and principles rather than a contest of who can borrow the most money, who can raise the most money, who is the wealthiest candidate that we can possibly find.

So, at some point there will be additional efforts. Perhaps there will be an effort to say that we should limit, just simply, how much we spend. Why would that be a wrong idea, if the amount that we would agree to is sufficient to allow adequate public debate? How can the Republican Party, as an institution with the traditions that they have stood for, object to a limitation on spending that is the same for both sides? Are they bankrupt of ideas, that they have to supplement the lack of ideas with huge sums of money? I am not willing to make that charge at all. But I think that those who would say spending limits are not fair even if they are evenly applied are admitting that, given the same amount of money, that their positions are not as strong as those of the other side. I truly believe that some day we, perhaps, will have an opportunity to vote again on this question.

Perhaps the issue can be framed so that we can really see how people feel by having the issue framed clearly that we are spending too much and that there should be a way of restricting the amount that is spent. Just a clear question: Are we willing to say that we will all spend less? That is an approach that perhaps needs to be considered. Get away from the clutter that is contained in this bill, as someone argued, and just have a clear-cut question of whether all of us are willing to join together and to say that all of us, equally, will be limited by the amount that we spend in Federal elections. I think perhaps that that is an approach that needs to be brought before the Senate so we can say that there is a clear-cut choice.

We have heard arguments here about how this is an effort to abolish the Republican party. We have heard arguments about how we do not like public financing. I think the clear reading of the bill answers all of those questions clearly and precisely with the restrictions on public financing, with the across-the-board applicability of the spending limitations, with the way that PAC's are treated—all of this clearly adds up to equal treatment.

The other side would try, I think, to make the argument that we on this side are engaged in an effort to give ourselves an unfair advantage. How can you argue that when the document that will apply to Democrats is the same document that will apply to Republicans? The same words, the same phrases, the same standards, the same spending limitations, the same individual contributions? The way we report the funds are identical for the

Republicans and the Democrats. Yet the arguments that I have been getting as to why this bill is not appropriate range from the fact that we are trying to eliminate the Republican Party in the South, trying to eliminate the Republican Party nationally. How can that argument be made when we treat Democrats exactly as we treat Republicans with regard to every provision that is contained in this legislation? I fail to see that argument.

Going back and reviewing what we have all been through, every one of us that has been elected to this body or to the House of Representatives, all of us have been through that same process and all of us, really, I think, dislike it. I do not know a lot of people that thoroughly enjoy raising money.

Oh, maybe there are a few. We have had some great fundraisers in this body. Some from my State were absolute masters of the ability of raising funds and I respect their ability. But I daresay that if we took a poll of Members of this body and of the House of Representatives and asked them the simple question: "What is the least enjoyable function of your office?" the answer would be: "Raising money."

I do not like calling up some of my friends and saying send me $1,000. I about fainted when they told me I had to start calling people and tell them to start sending $10,000. Where you say you need $10,000 to send to the DSC, DCCC, or XYZ, man, that really takes gall. It is really frightening to have to start calling people for $10,000. Members of the Congress have had to start clubs. We have to form breakfast committees. We have to ask people to pay to have breakfast with us. Is that not ridiculous? What does that have to do with having the qualifications of being a Member of the U.S. Senate?

But that is how far we have come, where we have clubs and PAC's that help me and I have PAC's that help other candidates and I have friends of mine that help other friends of mine. When we have all of these meetings there is not a lot of discussions about philosophy. There is more discussion about what committee do you serve on? How can it help?

Then I have to tell my staff that I am heading out in the hustings to spend my recess when I really would like to spend it doing a lot of other things. There are a lot of things I would like to do in life other than raise money. But I have to say: well, plan the first week in March, I have to be in California and be on the circuit with tincup in my hand because I have to start raising money for my 1992 election—1992? I have to raise money in 1988 so I can have the right to run for public office in 1992? I am having to give up weekends, and weeks, like everybody—I am certainly not implying that I am any different. I am running into my colleagues in airports carrying their tincups to the same cities that I have just left. Everybody has to do it if you are going to survive in the process.

The point that I make is that the process is broken and that we should not have to spend that time raising the millions of dollars that somebody has decided is necessary to serve in the U.S. Senate or the hundreds of thousands, of even millions, to serve in the U.S. House of Representatives.

We have corrected the problem in Presidential elections and it is working well. Why is it that one party refuses to allow the Congress of the United States to make the same corrections that apply to us? You know, the Congress seems very good at making laws that affect somebody else. We are very good at applying labor standards or working conditions that apply to other people and exempt ourselves.

In essence, that is what we have done with campaign finance reform. We have made it apply to Presidential candidates but we have not made it apply to us. We have exempted ourselves. I honestly believe that not a single Member of this distinguished body, Republican or Democrat, really like what we have, really think that it is a good system.

I dare say that some would say well, I have to keep it going because of political advantage, perhaps. But I dare say that everybody would like to see it changed, that everybody would like to be able to stand up and honestly say that elections are contests of ideas, and not contests of balance sheets, that the real challenge is to show that a candidate can be a better Senator instead of just being a better fundraiser, that everybody would want to be able to say with truthfulness that the contest is not an auction, that it truly is an election.

And unless and until we adopt a campaign reform bill such as contained in S. 2 it will continue to be auctions, it will continue to be a process whereby we run around airports in this country with tincups in our hand, when no one thinks the process is working but a majority is not willing to do something about it.

So I would hope that the effort that we have made that the majority leader has made that so many have participated in at ridiculous hours does not go unnoticed by the American people, that there is an effort in this Chamber to improve the system, that while it may not be successful tomorrow, it eventually will be, a venture that we can look to the qualifications of serving in political office as having eliminated being the richest or having raised the most money as one of the qualifications.

I notice that my distinguished colleague from the State of Colorado who has contributed so much and given so much of his time is here once again to engage in presenting the case to the American people and I will be pleased if he is ready to go ahead and yield the floor at this time.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Colorado is recognized.

Mr. WIRTH. I thank you, Mr. President.

I thank the distinguished Senator from Louisiana and associate myself with his remarks and also associate myself with the experience that he has had in many long years in the House of Representatives and now as a new Member of the U.S. Senate.

Those of us who have been through the battles over campaign finance laws for more than a decade today are more aware than ever before of the extraordinary need to change this system to reform the way in which we finance campaigns.

I think it is fair to say that this is not a new issue by any means. At times during the debate here in the last few days, the impression was created that people are startled to discover this issue again is current, and are surprised that it has not been possible to work out an acceptable compromise of issues in contention.

This issue has been around for a long time, and this issue, I suppose, has been somewhat polarized for a long time as well.

I know that the previous speaker is as aware as I am of the number of pieces of legislation in which we have tried to change the current system of financing campaigns since 1975 when I think the first piece of campaign finance reform legislation stimulated by the Watergate revelations was considered in the House. Every 2 years thereafter, at least once such bill has been introduced in an effort to find the formulation which would both remedy the growing problems in our system of campaign financing and secure sufficient support to pass both Houses of the Congress and gain enactment into law.

Today we find ourselves in something of a partial crescendo of this issue. We have been debating this issue in the Senate for just over a year. I think it has been shown repeatedly that a majority of Senators favors a system of public financing tied to voluntary spending limits. More than half of the Members of this body want to change the system.

The bill with which we started a year ago was reported by the Rules Committee after the committee heard numerous witnesses provide their views on the subject of campaign finance. That legislation was carefully constructed to be fair to all, and yet the committee reported to halt this appalling, staggering spiral of growing campaign costs, to limit the role of moneyed special interest groups in

campaigns in order to regain the public's trust, and to reengage ourselves in the process debating the great issues rather than just to engage ourselves in the processes of begging for money.

Most distressingly, I think the public perceives that the corrosive influence of money on campaigns has tainted the political process and, overall, skews the outcome toward the benefit of those who possess a little more influence because they happen to have a lot more money.

That kind of perception by the public certainly is not something with which we could be comfortable. That kind of public perception—plainly, simply, starkly—is a cancer on our precious democratic political process. This cancer will not extinguish our political system overnight. Its deadly work often is barely visible. But the perception that influence in our democratic institutions is for sale slowly, surely eats away the confidence and trust in our democratic system because the eventual result of failing to get rid of this cancer is that the people's trust in their Government is going to erode to an even greater extent.

That is a pretty frightening prospect and that is pretty strong language, but is not hyperbole. Our system of campaign finance is an integral ingredient of the stability of our political process, which in turn is such a critical, irreplaceable component of our way of life and the guarantor of freedom which is its bedrock.

Let us look at S. 2. S. 2, the legislation before us, was devised as an antidote to the poison of eroding trust in our system caused by the effects or the perceived effects of special interest money on both the political process and its outcome.

S. 2 admirably addresses the most distressing sources of the public cynicism that surrounds campaigns and campaign financing. The key sponsors, our distinguished colleague from Oklahoma, Senator BOREN, and our majority leader, and all other Senators who have contributed to the version of S. 2 now before the Senate, are certainly to be commended, and I am proud to associate myself with them in support of this legislation and to be a cosponsor of this measure, as I have been a cosponsor of many of the measures over the last 14 years to change the way in which we finance campaigns.

Unfortunately, a sufficient number of Senators opposed to that legislation has kept the majority which favors it from cutting off a filibuster designed to prevent its passage.

The principal objection raised by opponents when S. 2 first was taken to the floor by the majority leader was to the public financing.

That is why we heard the cacophony of screams and yells about this legislation. The opponents claim that they could not support using tax dollars for Senate campaigns, even if those funds were voluntarily allocated for that purpose by the taxpayers themselves. Even if those funds were voluntarily allocated, there were screams that this was a "a raid on the Treasury."

They claimed they could not support using tax dollars for Senate campaigns—even if those funds were voluntarily allocated for that purpose by the taxpayers themselves. The opponents also said we could not afford the projected cost, even though it amounted to less than 25 cents per U.S. citizen per year.

We did the best we could in trying to rebut the arguments that this was an enormous "raid on the Treasury." But when their opposition remained, in good faith we tried to figure out a way to take care of their concerns. As a result, a compromise proposal was put forward which utilized a matching funds construct and which cut by more than half the cost of the public financing provisions. The new proposal also cut the maximum proportion of the total 6-year election cycle costs that a candidate could receive in public funds to less than 25 percent. Were we willing to compromise? Were we willing to move?

Of course, we were. We did our best to try to assemble a different kind of construct. It was our hope that a least some of those who initially had been opposed would meet halfway those Senators who were supporting S. 2.

Was our effort to compromise successful? No. It was at that point—in the summer of last year—that the Senate Republican conference, in a step that many thought was ill-advised and ill-considered, took a firm stand against any legislation containing any provision for campaign spending limits or any public financing. They rejected any kind of limits on campaign spending and rejected any kind of public financing of congressional campaigns. This is especially interesting when one realizes that every Republican Presidential candidate but one since the Presidential campaign finance system was reformed prior to the 1976 elections has accepted that reformed system's spending limits and public financing, as have all the Democratic candidates in the same period.

In addition to rejecting the fundamentals of true reform, this action took a large and ominous step toward turning what should be a nonpartisan determination to address a nonpartisan problem, and turned it into a mean partisan contest.

Once again, however, S. 2's supporters—and more than half of the Senate's membership supports S. 2—tried to devise an acceptable compromise. We tried once, but it did not work; we tried a second time.

So the third version of this legislation, S. 2, was prepared. That third version contains all of the essential, immutable ingredients of campaign financing reform. But it does not rely on public financing for all Senate campaigns. Contrary to the claims that have been presented here, the third version of S. 2 does not rely on public financing for all Senate campaigns.

This bill before us has the following major features: First, it retains the aggregate PAC contribution limit. The claim has been made that there are no limitations on PAC in this legislation. Wrong. Aggregate PAC contribution limits are continued in this legislation.

Second, this legislation establishes voluntary spending limits and limits on the use of personal wealth.

Third, the legislation contains no, I underline, "no" public financing grants for Senate general elections so long as opposing candidates abide by the voluntary spending limits. Let me repeat: As long as candidates abide by the voluntary spending limits there will be no public financing grants for Senate general election candidates.

Fourth, the legislation establishes incentives for candidates to abide by the spending limits it establishes by making only those candidates who agree to abide by those spending limits eligible for preferential postage rates, and lowest unit broadcast time rates, and by providing that candidates who exceed the voluntary spending limits will trigger compensating payments to opponents who agree to remain within those limits.

So the incentives are there to encourage people to stay under the ceiling, to control their expenditures, and that, after all, is the key to this whole process.

Fifth, the legislation is front of us assures that candidates who are targeted by independent expenditures against them or for their oppponents will be able to respond effectively—by increasing the primary spending limits of participating candidates when such expenditures are made during the primary period and by providing a compensating payment to participating candidates when such expenditures are made during the general election period.

This addresses the debilitating, often nasty, and unaccountable, independent expenditures which pay for ads telling you and your neighbor how to vote, often in a negative fashion by castigating a candidate rather than by indicating support of a candidate.

Continuing with the central features of this legislation: It will establish the voluntary spending limits that it contains as mandatory spending limits if a constitutional amendment is ratified permitting the establishment of such mandatory limits. At that time the provisions that I described previously, which are intended to serve as incentives for candidates to abide by the voluntary limits, will disappear. In

other words, there is a trigger in this. If and when we pass a constitutional amendment to bypass the Buckley versus Valeo problems, to permit the Congress to establish spending limits for political campaigns, then all of the incentives that I have described above will disappear.

The proposal in front of us also contains a full offset for even its very slight potential cost by ending the current preferential mailing rates for political parties. I earlier noted that opponents have claimed this is a raid on the Treasury. Nonsense. The Republican Party, the Democratic Party, State parties, and other parties are already receiving support from the public. Let us not fool ourselves and suggest that is not there. Republican Party mailings and Democratic Party mailings already receive a preferential mailing rate. What we are doing is transferring that to candidates who agree to abide by spending limits. And we actually save the Treasury a little money in the process. Quite possibly we can see out of this a reduction in the Federal budget deficit if all candidates live within the spending limits for their States.

Those of us who sponsored this legislation have tried in every way that we know how to move meaningful campaign finance reform legislation on a nonpartisan basis. We have reached out, as I have described, again and again to our colleagues on the other side of the aisle to try to forge a way in which we can break this terrible upward spiral of campaign spending. Yet, our opponents, as far as I can see, have not moved an inch from their adamant opposition to spending limits and an aggregate limit on the amount PAC's can contribute to any single candidate during any election cycle.

The most vitriolic of our opponents would have us believe, and try to convince the American people, that there is no way to devise a means to halt the stunning growth in the amounts of money poured into congressional campaigns. The implication of their position is that they either fail to see or acknowledge the problem, they do not mind watching the American political system be put up for sale to the highest bidder, or they are just unwilling to invest the energy and effort to devise a method of controlling campaign spending.

I do not think campaign spending is uncontrollable by any means. I firmly believe that the American public, a large majority of the American public, rejects the conclusion that we are helpless. It rejects that conclusion and wants us to move on this issue.

If some of the opponents of spending limits fail to see or fail to acknowledge the problem, they ought to take off their blinders and open their eyes. If they believe it is proper and acceptable for public offices in this land to be sold to the highest bidder and for those who occupy the offices to be beholden to moneyed special interests, then they should admit it and face their constituents. I think we know what their constituents would say in response.

I hope the opponents are not simply too preoccupied to devise a means they find acceptable for controlling campaign spending in congressional elections. We are sent here to this body to face and resolve national problems and this is one of the most distressing.

Let us face it and call it what it is. Whether out of ignorance or laziness or conscious determination, those who are the "principal opponents" of spending limits effectively are proponents of absolutely unlimited, sky-high spending in campaigns.

The illogic of all this is something to behold. I cannot believe that there is not some amount of money that each Senator in this Chamber would agree is too much to spend on a Senate campaign in his or her State. Even conservative analysts looking at this situation are saying that campaign spending is getting totally out of control.

I want to refer to the February, 1987 issue of Conservative Digest which, as the distinguished Presiding Officer knows, we all spend a good deal of time reading and analyzing very carefully. The Conservative Digest reported that, according to current projections, when the new class of Senate freshmen—of which the distinguished Presiding Officer and I are privileged to be a member—runs for reelection in 1992, the average Senate campaign will cost $9 million. The average campaign will cost $9 million. Based on the Conservative Digest's number, in the 1992 election a Senator seeking reelection from an average State will have to raise $125,000 every month, $28,000 a week, $4,000 every day, Saturdays and Sundays and holidays included, and $171 every hour of every day, 24 hours a day, 7 days a week for 6 straight years—$9 million for the average Senate campaign for 1992.

Is there no limit that we ought to place on this? Of course there is. The idea that we should allow this kind of thing to continue is preposterous.

While I think S. 2 incorporates a fair, desirable methodology for determining what State-by-State spending limits should be, I am prepared to agree that there surely can be differences of opinion concerning at what level spending limits should be set, and what methodology should be used to set them. I cannot believe that willing people could not negotiate acceptable compromises on levels and methodologies.

But, Mr. President, one cannot negotiate anything if one side will not even come to the table. By rejecting on grounds of principle even the concept of spending limits, the Republicans have ended the conversation before it begins.

When I first ran for the House of Representatives in 1974, I spent around $135,000, and I understand that was well above average for that year. In just a 12-year period of time that $135,000 escalated to $600,000 to $700,000. This is for just one House district, albeit a contested, highly competitive House district. I see nothing that justifies a fourfold increase in campaign spending there in 12 years. Then, looking at the election of 1986 in which a number of us were fortunate to win election to the Senate, the amounts of money spent in those campaigns also were out of control.

Further, the amount of time we candidates spent fund-raising escalated dramatically. Unavoidably, we had less and less time to engage in discussions with our constituents. Is that good for the process? I think not. Many of us got to know major fundraisers and their telephone numbers a lot better than just about any other people or facts involved in the campaign. The spending cycle rolled on: I spend dollars, so you spend dollars, so I spend more dollars, so you spend more dollars. Everybody trys to neutralize everybody else, and what is the result? I think the result likely is enormous fatigue on the part of the voters who watch this process unfold.

Our system of financing campaigns certainly is fouled up. It needs change. It has to be done. I would hope that my colleagues would recognize the need to break into the never-ending spiral of costs to make the change that we and the American people know ought to be made. That is our responsibility, not to sit back, not to do nothing, not to allow ourselves to be paralyzed by this, but to change things for the better.

Mr. President, I see that our next distinguished speaker is here, the junior Senator from the State of Montana, with whom I had the privilege of entering the House in 1974, whose experience is not dissimilar to that of so many of us who arrived in that time of reform and change when there was a wonderful spirit that in fact the legislature could make a difference. And we did make a difference on a lot of issues.

Before us is another issue in which a lot of difference still has to be made.

That difference can be made if we pass the legislation in front of us.

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

The PRESIDING OFFICER. The Senator from Montana, Mr. BAUCUS.

Mr. BAUCUS. Mr. President, I want to thank the Senator from Colorado for his statement. He, frankly, touched on a point which I think is

very critical and central to this issue. In 1974, a good number of us across the country ran for the U.S. Congress in large part because of the aftermath of the Watergate era. Some of us felt that it was our time to contribute whatever we could to public service and I, along with others, particularly the Senator from Colorado, ran for Congress that year.

I must say that when I arrived in Washington, DC, I was overwhelmed by the degree of intelligence, the degree of dedication to public service, and the degree which the group that got elected—I must, to some degree, except myself from this category—want to serve their country.

I will never forget that we stood around in a room, all of us who got elected in 1974, and each of us went around the room and explained for 3 minutes why he or she ran for Congress that year and what he or she intended to do. The Senator from Colorado was in that room and I could think of lots of Members in the House now, most of them are still there, some have run for the Senate, some have run for Governor, some are Governors. But when each went around the room, I was awestruck by the degree to which each of these people, wonderfully intelligent people, was going to help make this a better place.

I had assumed, like a lot of the American public, that Members of Congress were a bunch of buffoons. They do not know very much. They go to cocktail parties and they do not work very hard.

When I arrived back here, and particularly with this group, I was very pleasantly surprised. And it is that spirit of reform that overwhelmed this group that really made the difference. And as the Senator from Colorado pointed out—he was almost a leader of that group—this is an opportunity for us—by "us" I mean the entire Senate—to reform present campaign financing. We know we have a problem. It is a severe problem.

Many speakers have indicated how much campaigns have increased over the years, the cost of the campaigns have increased. I do not have the precise figures from my campaigns, but I know that since I first ran for Congress in 1974 and for reelection in 1976 and the U.S. Senate in 1978 and reelection in 1984, that the cost of my campaign has gone up, I would guess, three or fourfold just in those few years. But the national figures are even more alarming, Mr. President, as you well know. I think House races since 1972 increased in cost six times and Senate races on the average have increased seven times—a sevenfold increase since 1972. And the cost of campaigns is therefore increasing at not only a rate much faster than the Consumer Price Index or the cost of living in America, but at drastically faster rate.

What does all this mean? First, it means that there is a great proliferation of political action committees, called PAC's. In 1972, I think there were a few hundred of them. How many of them are there today? There are about 4,000 political action committees today. That is about a tenfold increase since 1972. Why? Because basically most of us in the political arena who want to work run for election will work hard, do our very best to try to earn enough money to get enough contributions so that we can get reelected. The same with the challengers. They will go out and get as much money as they possibly can and spend it on the TV ads or whatever because they want to get elected. Most of them, by far, for the right reasons. They want to serve America.

The first amendment says there is no limit on expenditures so we go ahead and we work as hard as we possibly can. Well, that has had several effects in my experience. One is that it takes so much time away from our job.

Mr. President, in my experience around here, we spend more and more of our time, unfortunately, on the periphery of what is really going on in this country and really not trying to use our time to solve some very basic problems. I am not saying we do not solve many, but at best we do not spend the gut core of our time on the very basic problems facing this country—education, international trade, the Middle East, Central America, you name it. We basically, in the number of hours we spend in the debate on the floor of the Senate, the number of hours we spend in committees, tend to spend time on peripheral little amendments on the edges that do not really have much to do with what is going on.

I think that is in large part due to increases in the communications technology in our country and the world experience. We know so much about everything; we would like to think we do. But the fact is we have so much access to so much information and the groups therefore have tremendous access to us. It is very complicated. I do not profess to have the precise answer. But it is clear, to me anyway, that we spend less time on addressing very basic core issues. To complicate it, to make it worse, we have to spend even more time raising money to get reelected because most of us want to serve our country. We want to get reelected, reelected for the right reason and, therefore, that is even more time away from the basic fundamental points that face out country.

I know that when I run for office—and I have heard many Members of the House and Senate say when they run for office that they are spending more and more time just trying to raise money.

I spoke with one Senator, a sitting Senator, who told me in his last reelection in the last 6, 7, 8 months, he spent 50 percent of his time on the telephone raising money—50 percent. Fifty percent of his time on the telephone just making telephone calls asking for money.

Now if he has to spend 50 percent of his time just asking for money, something is wrong. Something just does not make sense here.

And that is the trend. More and more challengers, more and more incumbents are spending a greater proportion of their hours that they are awake on the telephone or at fundraisers trying to raise money.

We all know the mindless, inane ritual around here on both sides of the aisle of the fundraising cocktail parties. By gosh, Washington, DC, is just full of evening fundraisers. What is accomplished at those fundraisers? Nothing very constructive in my judgment. First of all, you stand around in that inane cocktail chatter that is more degrading than it is constructive. Second, it tends to be that knicky-knacky food which is not very good for you anyway and then there is obviously the booze and the alcohol which is not very good for anybody. It is just wasting time, time we could be spending with our families, our wives and children; time trying to think great thoughts, trying to solve the problems that fact the country. No, we spent all this time going to all of these fundraising receptions. Why? We do not ask for any money at these receptions. We go and somehow organizations raise the money and so forth and somehow it is just done.

The fact of the matter is that a lot of these PAC's that are proliferating in great numbers, they go to all these receptions, too. They go to three, four, five, or six a day. It just does not make any sense. The fact of the matter is they tend to contribute to both sides of the race, contribute to the challenger more often than not, and also to the incumbent because they want to cover their bets. Does that make any sense? Money is supposed to be contributed to candidates they want elected. Basically they are contributing money because they want to hedge their bets, not because they particularly are interested in getting anybody elected. It is dumb. It goes on and on.

The more we continue along this route, the more pernicious, the more invidious it becomes and the more it has a numbing influence on all of us here in the Senate, our offices, and basically the apparatus that is supposed to be legislating and solving some of the Nation's problems.

Mr. President, I think all of this money turns off voters. It turns off

voters for a lot of reasons. One is that they just smell a problem brewing. I personally believe that where there is an excess of money there is a scandal waiting to happen. That is what happened in Watergate. There were a lot of reasons for Watergate, but I strongly believe that one of the causes of Watergate was all of that money. The Nixon administration that ran for election at that time just had so much money. And when there is so much money, that money is going to go someplace and somebody is going to do something with all that money. And when there is an excess of money, there is a scandal brewing.

Mr. President, as sure as I am standing here, I know that if the present system is not checked, if the present system continues, if there is exponential increases and the number of dollars continues to grow in congressional campaigns, mark my words, there is going to be a campaign finance scandal in America. Unfortunately, it may take the scandal to finally get the voters' attention enough to put enough pressure on our recalcitrant Members of the Senate who are delaying and filibustering this legislation to get some result.

I hope that is not the case, but as I grow older and get a couple of gray hairs and start looking at life, sometimes a little bit of skepticism and cynicism creeps in once in a while about human nature. And there is that part of human nature that you have to get hit in the head with a sledgehammer before you realize something is happening, something is going on. I hope that is not the problem we face here. I hope we do not have to have a crisis. But all of this money that is slushing around in the political system I think is going to cause a scandal. I do not know when it is going to happen, but, if left unchecked, I guarantee you it is going to happen and here we have an opportunity to try to prevent it and do something about it.

There is another effect of all of this money. It discourages good candidates from running for office.

Not too long ago, 3 or 4 years ago, I helped the Senator from Maine, Senator MITCHELL, who was then chairman of the Senate Campaign Committee, to try to recruit good candidates to run for the Senate. I made quite a few phone calls scouring various States to see who might be interested in running for the Senate. It was a very interesting experience for a lot of reasons, but one that particularly strikes me is that we found a lot of super people, a lot of good people who wanted to run for the U.S. Senate because they had a burning desire to try to help make this a better country. They were all charged up and excited. I can think of several right now. We talked about it. Sure, there were a couple of little questions they asked. Sometimes their families were not sure they wanted to move to Washington. We talked about that for a while, the pluses and minuses of family life in Washington, DC.

Then we would get to how much this campaign is going to cost. Well, first, they know those large numbers were a problem, but more often than not the more they thought about the cost of running for office compared with how much the other side automatically had, because we all know the campaign committee on the other side of the aisle maxes out so early and has all those additional dollars. It has a whole treasury there of dollars for the candidate on the other side in the Republican Party. The Democratic challengers began to recognize this and they started to back off and were not sure they wanted to run for the U.S. Senate.

There is that foreboding, awesome task of trying to raise money in the face of the avalanche of money on the other side. That not only caused them to back off a little bit, Mr. President, but I can tell you among all the candidates I talked to, I would guess about 60 or 70 percent of them said no. They are not going to run. And it is because of money.

These are people who are not millionaires. These are people who are not wealthy. They are average American citizens who would like to serve their country. And most of these people decided not to run for office, not to run for the U.S. Senate because of all the money that the other side is automatically going to have; how hard it was going to be for them to raise the money.

Mr. President, I do not think that is a system this country wants. More important, I think that that is a system that tends to undermine the basis fiber of our country. There is a small part of this, too, in that this bill that is before us also limits the wealthiest persons from going into their personal wealth to run for office. I think any American should run for the U.S. Senate who wants to, whether he is a millionaire or not. But I also think a millionaire should not be able to buy an election, and that is a trend that is happening in the Congress. That is, the wealthiest people can dip into their own personal treasuries and run for office but other people who are not so wealthy, sure, they can dip into their treasuries. Their treasuries tend to be bills or mortgage payments or house payments or tuition payments for their kids. They do not have the personal wealth to run for office and that is not right.

This country is based on equality. It is one of the basic principles in our country and it seems to me if we truly believe it we have to have a system where anybody who wants to run has a pretty good chance to run for public office. That is not the case today because money greatly tilts the present system away from average Americans with just average incomes.

Mr. President, there is another pernicious effect of this present system that we have and that is that money talks. That is the wealthiest contributors, that is the largest contributors to a Senate campaign, have more access than do other Americans who have not the means and therefore have not contributed as much to a particular Senate candidate.

I know all of us here think, well, no, we are insulated from all of that; that we Members of the Senate, after we are elected, we treat everybody equally. But we all know that as much as we assiduously attempt to insulate ourselves from contributors that there is a tendency for Members of the Senate, for Members of the House, for anyone who receives a major political contribution to at least provide more access to that person than to someone else. That is to listen more readily to try to determine what that person's political point of view is rather than that of somebody else who has not contributed at all to the campaign.

Obviously that is a generalization. Obviously there are many exceptions to that generalization but I think it is a generalization that, fairly, has a lot of truth in it.

It is even more pernicious, from my point of view, for those Senators from the largest, most populous States. Why do I say that? Because it is easy for me as a Senator from Montana, a thinly populated State, to give absolutely equal access to all people in my State. It is much easier for me than it is for a Senator from a much more populous State.

I have a policy in my office where I take all telephone calls from my State of Montana unscreened. I do not care who it is. I have instructions to my personal secretary, anybody calling from Montana I personally take that call if it is from Montana, regardless of who it is and what the issue is. If it is a Montana call, I take the call.

Sometimes I am not in my office, I am at a meeting, but I have firm instructions to my secretary: Make sure I return that call that day. I can do that more easily than can a Senator from a more populous State because there are not so many folks in my State. Montana is not California with a population of what, 25 million, approximately? Other States have populations over 10 million. But I can do that in Montana and I can do that in my office.

I have another policy. When any group of Montanans comes to Washington, DC, I see them. If it is someone from Montana, if they want to see me, I see that person.

When it comes to both those telephone calls and the folks from my State who want to visit me, it makes no different whether they contribute to my campaign or not. I do not ask. They do not tell me. It is irrelevant. But I can do that because I come from a thinly populated State; States like Idaho, Montana, Wyoming, some of the Western, more thinly populated State. If I were a Senator from a more populated State, I could not do that. It is logistically impossible. I cannot do it.

Therefore, I suspect there would be a tendency for me, as there might be for Senators from more populous States, to try to decide, "Who are you going to see and who are you not going to see? What telephone calls are you going to take and which ones not take?" I am not going to predict or guess as to how Senators make those decisions but I will say I suspect that the larger the contributor is, that the more dollars a caller has contributed to a campaign, the more likely it is that person is going to be listened to by a U.S. Senator or the more likely it is that that person from that State who walks in that office is going to be seen by the Senator. I just suspect that is probably the case and it is another effect of money. Money does talk.

Most Americans do not have near the amount of money that some of the major contributions have; again it is a very pernicious effect, I think, that affects America.

Mr. President, this bill before us today, S. 2, a bill to limit campaign expenditures, is just that. It is a bill that sets limits. I think that is good for a couple of reasons.

No. 1, as we all know, there is just too much money in the political system today. We have to limit the number of dollars in campaigns today. It is clear that with the increases, unless something happens, for all the reasons that I and others mentioned, there are going to be some real problems here.

But there is another reason and that other reason is a symbolic reason. It is a psychological reason. I think too many of us in America since World War II, because our country has been such a wealthy country, have been a little bit undisciplined. It is sort of: live now and pay later. We are an instant consumption society compared with some other countries. We tend, compared with other countries, to be more of an instant gratification society. We think in the short term more than some other peoples. That is true both in private and public life. As individuals we tend in that direction and certainly we know that the Federal budget deficits we have today in our country indicate that is true in public life.

The U.S. Government has borrowed so much money, with no limits on the deficits that face us, that we are now in a position where we are going to have to worry about paying the piper at a very near date.

So I think it is important to set limits, not only to limit campaign spending but also to begin to set the psychological tone; to begin to set an example; to begin to put in place the symbolism of limits.

You know, most of us are parents. We know when we raise kids there are basic principles that are right and make sense. Basically it is love and limits. We love our children but we also know we have to set some limits on our children's activities and behavior. And we also know that kids want those limits. It is a question of where you place the limits. Sometimes they are placed too strictly, sometimes too loosely. But limits are necessary.

I think that we as Members of the Senate should begin to limit ourselves; begin to limit the number of dollars that we spend on campaigns. We should begin to show to the American people that we, Senators, cannot only set limits but we can set limits on ourselves. That is, self-discipline.

(At this point Mr. DASCHLE assumed the chair.)

Mr. BAUCUS. Ultimately it is self-discipline, I think, that determines the worth of a person. It is the degree of self-discipline and it is how that self-discipline is arrived at and how it is exercised.

Mr. President, those limits, I think, would be very, very helpful.

Some criticize this bill for various reasons, and I am not going to stand here and say this is the perfect bill, because it is not. Nothing is perfect. But it is certainly a major effort to try to do something about the present system. Some criticize the bill because they say, "Oh, there is all this public financing; it is taxpayers' dollars. Not only does that increase the budget deficit, it is kind of an entitlement program," et cetera.

Mr. President, those charges are inaccurate. It is true that earlier versions of this bill contain large components of public financing. But the bill before us does not. The bill before us has very, very limited public financing money in it that is available to candidates; very minimal. It only triggers in when an opponent goes over limits that are prescribed in the bill; only then. In those instances, it is very, very nominal. This is essentially a bill to set limits on the number of dollars raised and the number of dollars spent in Senate campaigns. That is what this bill is about. And only when those limits are exceeded, certain limits are exceeded by an opponent, in that instance are there some public dollars. I guarantee you, they are very minimal.

In fact, this bill is essentially self-financing, too. That is the number of dollars that this bill will cost will be offset by the elimination of the checkoff system that is presently on the income tax forms. That loses dollars that would otherwise go to the Treasury. That checkoff will be eliminated. Those dollars, therefore, the taxpayers would pay, will go into the Treasury and that essentially finances the minimal amount of public financing here.

But that is a red herring, when people talk about public financing. The chief critical core thrust of this bill is limits on expenditures. Mr. President, we have got to set those limits. We have to. There are all kinds of reasons that were discussed all night, last—yesterday, the day before. We know the reasons. I am not going to reiterate them here now. But this bill is essentially a bill to set those limits.

I think it is important to do so for an additional reason I have not mentioned and that is that our system government is a bit different than the systems in some other countries. I am referring here to the parliamentary governments. One reason that campaigns are less expensive in Great Britain is because they do not have a constitutional form of government with separate coequal branches of government. Rather, they have a parliamentary system where the government elected is also the government that is in power in the executive branch. More importantly, they have shorter campaign periods because the party that is in power will call an election sometime within 5 years after it is elected but nobody knows when that election date is going to be until parliament dissolves and then the election is usually 6 weeks later. The beauty of that is it shortens campaigns. They are only about 6 weeks. Whereas the America they are getting close to 6 years.

Certainly in Presidential campaigns, and Senate and House races, virtually they are on a 2-year basis. Six weeks is a lot shorter. That effectively limits the number of dollars in political campaigns.

The only point I am making here is we do not have that system. We have an extended, open-ended system and, as a consequence, all the incentives are to spend more dollars, not only because the campaign period is that much longer, but for all the other reasons I mentioned earlier.

In addition to that, Mr. President, we have a weak party structure. That is another reason why candidates have to go out and raise so much money and spend so much money. Both parties, Republican Party and the Democratic Party, is it a fact of the matter, let us be candid and honest about it, have less and less power over the

years. That is the party itself has less power to raise money as a party for the candidate over the years. A party also has less organizational power to get out the vote over the years. Parties are becoming more and more parties in name; less and less parties in fact. It is just a fact of life.

This is due to increases in communications technology, instant access to any information by anyone for anyone. The party structure and all institutions, that is parties, tend to lose their authority because, again, that is part of that instant access to information.

So parties are breaking down. I think they are, and I think everybody will agree that they are. That means that the candidates have to go out more on their own, set up their own organizations, raise their own dollars, and spend their dollars basically in the way each candidate sees fit. That is also happening in America today.

That is another reason why we have to set some limits. I do not say set limits so we can strengthen parties. That may be a consequence of limits. I doubt that would actually be a consequence of limits.

What I am saying is due to the system we have, a nonparliamentary system, the advances in technologies, the first amendment right to spend money any way you want to or say anything you want to say—for all these reasons and because a candidate will do anything to get elected, incumbent or challenger, therefore, raise more dollars to get the message out, all incentives in the wrong direction, more money, less time for the job, discourages good candidates from running. All those lush dollars increase a scandal waiting to happen.

There are all these reasons.

Mr. President, I strongly urge us to take a step. There is a popular slogan, give peace a chance. I am suggesting let us give campaign and campaign finance reform a chance.

President Harry Truman once said if something does not work try something else, if that does not work, then try something else again.

I am not saying it is a perfect bill. Of course it is not perfect, but it is a very honest, legitimate, good faith attempt to try to get a handle on the problem to try to set some limits on these excesses. That is all this bill is.

I suggest we try it and, yes, we are going to modify it as we move along as we experience little twists and turns, but we should not shy away from it because we do not know if it is perfect. We should try it.

I suggest that if we do try it we are going to be surprised and kind of like it. We do not have to go around all these receptions raising money, do not have to spend all this time and money grubbing. The American votes are going to like the psychological message it is sending. Senators are trying to exercise self-discipline and therefore Congress can exercise self-discipline which I think is necessary as we move into the eighties and nineties and next century.

Therefore, modify it as we go along.

Mr. President, I am about to yield the floor here and just urge us to give it a whack and give it a try and take it from there.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, good morning.

Yesterday about the same time I was recognized and my colleagues who have spoken prior to my returning this morning obviously have been filled with wisdom and insight as we continue to address the issue of S. 2.

I wholeheartedly agree that reform is needed, but I do not agree that the proposal before us as conceived is by any means the best way to do it.

As I have stated before this body, S. 2 would only address part of the problem. Why do we only have to address part of the problem when the problem is far more significant?

In my opinion, it would create new and more serious problems than those that we currently face. To begin with much of the emphasis of this debate seems to be preoccupied with the large amounts of dollars raised by senatorial candidates in order to run a campaign. That is important but our preoccupation is with that point.

Let us try and set the record straight as to just where the money goes in order to run a campaign and why it is necessary for candidates to raise contributions in the first place.

Millions and millions of dollars that go to campaign committees each election do not end up in the candidate's pocket. The money is spent on the media throughout this country, the television, the newspapers, the brochures and the like. Candidates do not determine the price of a full-page ad or a 30-second television advertisement. The media does that. Those large sums of money that are criticized are the amounts that candidates must raise in order to pay the media bills.

One could ask the question, Why do candidates have to advertise in the first place?

Various countries have campaign limitation, times in which they can expend funds and limitations on specific type medias that can be utilized. We do not have that situation in this country. Perhaps we should.

But clearly the traditional answer up until this point is that paid advertising is one of the principal ways to get to tell our side of the story.

Now, it may be true and I think we have all had experiences with this, that the news media does attempt to objectively inform the public about the candidates, about the positions, but we have all experienced the occasion when the media chooses to take a side, to promote a favored candidate or a political position. The only alternative for a candidate then is to purchase advertising if he or she wants to be very sure of getting his or her point of view across.

We have all had examples. In our State recently a newspaper ran a series of stories and editorials, panning our Congressmen for missing votes. They also ran a series against the senior Senator from our State on an offhand comment that he could earn more money outside the Senate.

The question is, What options do these elected officials have to defend themselves if they so choose against what they might view as an attempt to degrade their character?

(At this point, Mr. BAUCUS assumed the chair.)

Mr. MURKOWSKI. So I ask you, Mr. President, what options are available when the media decides to get involved in a campaign?

There are no controls on how much campaigning they can do editorially for or against a candidate and rightfully so our Constitution gives them that privilege.

What we can do as candidates is to buy space to put in our side of the story.

So advertising truly during a campaign is the principal option available to us to correct attacks on our record that we choose to respond to.

Now, I could not agree more than the campaign process has gotten out of hand. Of course, we should put limits on it. However, just capping the dollars contributed and spent as S. 2 would do, as I indicated in my opening remarks, only addresses part of the problem.

Monetary contributions from political action committees, PAC's as they have fondly become to be known as, as well as contributions from individual contributors are, of course, an important part of the successful campaign.

And this is an area that is a bit sensitive with our colleagues on the other side of the aisle. So too are the so-called soft money contributions. The latter category consists of the voluntary efforts that certain organizations can deliver to a candidate, and I emphasize the word "certain" organizations.

Under current law, there are limits on PAC's and individual campaign contributions to a candidate as there certainly should be.

Additionally, candidates and contributors file public record reports on the amount of funds received or contributed.

But what about soft money, should that not also be included in the money limits placed on a campaign? Say, a

labor union turns out volunteers, it may turn out those that are on the so-called bench that are in the hall, that are awaiting to be called on a job, it turns out these volunteers to make telephone calls for a candidate or an advocacy group, again individually volunteers, its members to address and mail letters, perhaps Common Cause or other organizations goes out and provides door-to-door canvassers.

These usually are not reported as contributions, yet they very clearly have a monetary value. And the monetary value is what it would cost the candidate that does not have that capability to go out and hire people to do that job.

One could quickly calculate what it would cost to figure a minimum wage applicable to hundreds of these volunteers for a few months before a campaign. Well, we all know, Mr. President, that that value far exceeds a $5,000 check from the PAC or for that matter dozens of PAC checks.

What about what is referred to as the third party assistance? This is assistance for a candidate, and it was also included in the general category or reference of soft money. Perhaps a teacher's union, the NEA, mails its members and runs newspaper ads against one candidate and for another. Should not that dollar value be computed in the campaign list for a candidate? This Senator thinks it should, and unfortunately the bill before us, S. 2, is unamendable. It cannot accommodate those of us who are concerned legitimately with these areas of third party assistance, soft money. The Senator from Alaska would be happy to see the PAC contributions reduced or eliminated, but in doing so, let us balance the equation.

Why are we so reluctant on the other side to address the issue of soft money, the issue of third party assistance?

Let us stand up to what we have initiated here in the area of campaign reform and address these concerns too.

Mr. President, what if say the Sierra Club does a fundraising mailing for a certain candidate and asks members to send contributions to the candidate? Should not the cost of the original mailing be required to be within the contributon limits set for PAC's or individuals and added to the total spending a candidate can make? Should these third parties be allowed to retain tax exemption and to be able to use special mailing rates for their mailings?

What about the contributions from the news media itself? Should we try and structure some way of placing a dollar value on the obvious campaigning that a media outlet conducts during a campaign?

Further, Mr. President, one would ask whether our Constitution intends that we place limits on freedom of speech for individuals and groups of individuals or PAC's but exempt newspaper publishers? We are not here to debate the constitutional merits. I am simply laying before my colleagues the inconsistencies that are in existence as we consider campaign reform under S. 2 and the fact that newspaper publishers obviously are free as they should be to express their opinions but indeed their opinions have political consequences, political consequences that oftentimes are the difference between one candidate successfully achieving an election and another in defeat.

I do not know about this. But these are certainly legitimate questions that deserve more consideration by the American public.

S. 2, as I have stated time and time again, ignores the soft money contributions, and I do not believe that is the best approach. We have heard time and time again that the Republicans are the ones that are holding up campaign reform, we are the ones fighting S. 2. And I have heard the suggestion, which to me is incredible, that the reasons may be because we have some sort of advantage by being able to raise more money than our Democratic colleagues. Well, I would ask the question: If this assertion were true, would not the Republicans be in the majority in the House and the Senate? They certainly are not. In other words, might it be that the soft money advantage enjoyed by our Democratic colleagues offers more of an advantage than the dollars that the Republicans raise? I am not going to attempt to answer that question in any more detail, Mr. President, but I think it is obvious that the allegation has no foundation. And as I say, if it did, why one would assume that Republicans would control both the House and Senate, and we know, of course, that is not the case.

Is it not possible that if S. 2 were to restrict the Republican ability to raise money, while at the same time do nothing to restrict the other side's ability to get their volunteers, that ultimately we could see ourselves drifting into a one-party system? I think after observing the activities of the last several days, my colleagues would agree that that certainly would not provide a stimulating atmosphere in this body such as we have seen.

Is this really something that America wants? The Soviets, of course, have a one-party system. We have seen its activities, its actions, we have seen its application on the public. They are citizens, true. They get to vote. They vote for the one person the party selects. Of course, we do not want to emulate that system. I would urge my colleagues that we send S. 2 back to the drawing boards, that we open it up for amendments, and that we restructure it. We can do collectively what we want to do to address the inconsistencies in S. 2. If we agree to set limits on campaigning, fine. But let us at the same time figure out how to account for all the money that is spent, all the money that is involved, both the hard cash and the soft money.

I have not mentioned yet all the reasons why I oppose S. 2. But they relate to my feeling that the bill would initiate a system for using as its base taxpayers' money to fund Senate elections. I abhor basically that concept. I think it is the worst possible direction that our democracy can take.

We are experiencing the use of public funds for the Chief Executive race of our Presidents. But is it appropriate that Americans want to fund their broad base elected representatives that way? We all live with this growing bureaucracy. We are all responsive to the difficulties that it has because of its size to respond to the individual citizen. We all have many, many friends in Government, dedicated people, people whom we respect. We know that they work hard, but generally because of the nature of the beast Government agencies get a C or C-minus, or maybe a B-minus, and a few of them get a B for really meeting, in the minds of the people, the needs of the people. I do not think we have to dwell on that. That just happens to be the nature of the political system. It generally equates to a level of both capability and general response.

Let us look up and recognize another reality we have in this country. That is associated with an example of public perception of whether we think the IRS, say, is being fair or unfair, or other agencies taking too long to process applications, or whatever. There is very little that the citizen can do about that. We get our letters. We have our case work. Oftentimes, the average person, if he becomes discouraged, form an opinion of Government. We, of course, are happy to help those constitutents who come directly to us.

The point I am making, Mr. President, is we in the legislative branch still have a handle over the executive branch because we control their budget. That is how basically each Member of this body is able to effectively go into an agency and say, "Hey, I have a request from a constituent that hasn't been answered, or there was an answer but it did not really address the concerns of the problem." It did not indicate how to make the particular constituent response a positive response. It was more structured that on the one hand or the other hand with an additional filing, an additional application, your request will be considered.

Well, Mr. President, we have that leverage of going into that agency because we do control the executive branch budget. And they do respond to us. And that gives us leverage. I

think my colleagues would agree a good deal of our work is similar to that of an ombudsman. Of course, that is the person that helps individuals solve problems through the Federal bureaucracy.

I am concerned about what might happen if tax money were used to fund these congressional races because whether it is cash or soft money, candidates of both parties have to appeal to the public at large or these special interest groups to get support. That means really the candidates have to be responsive to the people who help elect them. If we change this process and allow instead the Government to take the money from public in the form the taxes and then distribute to candidates running for office, one has to ask what kind of elected officials we would eventually end up with and one would have to ask to whom would they be responsible? Then where would the private citizen go to turn for help?

Mr. President, I think these are some legitimate and some serious shortcomings. Think about the inequity as well of placing an arbitrary limit on Senate races based on the population of a State. Alaska is the 49th State in population. Yet, we are 2½ times the size of Texas, we are one-fifth the size of the United States. If you overlay my State of Alaska on a proportional scale of the United States, the extremes of southeastern Alaska will go from Florida on the one end to the Northwest and touch the coast of California, the very northern part of my State will touch Canada, and the very southernmost part, the Mexican border. It is hard to share with my colleagues the realization of this vast piece of geography known as Alaska. The State is populated with approximately 550,000 people.

To campaign in Alaska requires a great deal of expense, charters, lots of advertising. We have individual markets. I cannot place an ad in one city and expect residents 1,000 miles away to see it.

I have to run individual ads all over the State. Unlike my colleagues in Maryland, they go home to their State every night. They do not have to charter to Maryland. Then can drive to every community. I cannot drive to every community. We do not have roads connecting all of our cities. We have to fly and what it costs is much, much more than it costs anywhere else in the United States.

So as you contemplate in S. 2 the inequities of placing an arbitrary limit on Senate races based on population, I have to stand up and say it is unfair. There are no exceptions in S. 2 for my State of Alaska.

Mr. President, I could go on on this subject. But you know I have been listening to my colleagues and they have pretty well said it all. There are a lot of things wrong with S. 2, yet we are faced with a choice of either voting for it, or talking about it. Hopefully, America is listening.

I see my colleague and good friend, the senior Senator from Alaska has joined us and will be speaking on the subject. So, Mr. President, I will yield to the Senator from Alaska.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am pleased to be here this morning to follow my good friend, my longtime friend from home, Senator MURKOWSKI. I know he has stated a position with regard to this bill as it affects those of us who try to campaign in a State that is one-fifth the size of the United States as compared to those who campaign, say, in Rhode Island and have the same limits and the same rules apply to all Senators from all States as far as expenditures are concerned.

It is an interesting thing. But let me first start off, Mr. President, by saying on the way down here today, and I might say it is due to the kindness of my friends that I was not here during the early hours of the morning of last evening because I caught a cold. So I have been given the opportunity to have a full night's sleep and see if I can get over my cold.

But as I was coming down, I thought, isn't it great to live in this country? You know, we had a major dispute here last evening. This is the crucible of democracy. And we have had the minority delay and thwart for the time being the desires of the majority to pass legislation which some national lobbying organizations say ought to be passed.

We had an arrest, but my good friend from Oregon did not go to jail. He is not a political prisoner, and we do not have any lasting animosity as a result of this dispute.

We have just witnessed, in my opinion, the fullest sense of why we are celebrating the 200th anniversary of our Constitution, the full exercise of the right to free speech and the full exercise of the right of free debate. I think that is something to celebrate as far as our country is concerned.

So I am delighted to have a chance to be among the last of a series of speakers on this side to try to explain to the Senate and to the country why we are opposed to this bill.

Mr. President, I would like to go back to the time during the 99th Congress that my good friend from Oklahoma, Senator BOREN, and my other dear friend, former Senator Goldwater presented us with the Boren-Goldwater bill. Senator BOREN had first introduced the bill and Senator Goldwater joined him later with some changes. That bill was referred by a vote on the floor of the Senate to the Rules Committee for study, and the Rules Committee did study it.

By the time we came to the 100th Congress, however, it was clear that the majority had decided there was one important feature of the new bill that would have to be added that was not in the original Boren bill, was not in the Goldwater-Boren bill, and that is the expenditure limitations that are in this bill.

I have a letter—I do not know if my good friend, Mr. Canfield, this morning can find that letter—but I have a letter from Senator Goldwater, who is no longer a Member of the Senate but is my great friend of many years, who told me in the letter that he could not support S. 2. In his letter, Senator Goldwater says that he is not in favor of the public financing and he is not in favor of this bill as it is presented to the Senate. If he were here he would be part of the group of Senators who are opposing the passage of this bill.

I think it is incumbent upon us to explain why. This is not a philosophical matter.

I also have been one who has been a cosponsor of the constitutional amendment to reverse the Buckley case. Yesterday, I announced that I would no longer support that Senate resolution and I want to explain to the Senate why.

Our new Senator from Kentucky, Senator MCCONNELL, presented a statement here last week that I listened to. It is a very interesting statement. I think the Senate as a whole ought to go back and read it. He presented a statement which shows that every Presidential candidate since 1976 through his campaign committee has been charged with violating the existing Presidential limits on spending under the campaign financing law as it applies to Presidential candidates. Now just think of that. Every single one.

In the campaigns since that time, one out of every four dollars that has been contributed to a Presidential candidate has been paid to lawyers and accountants. In the 1980 race alone, $21.4 million of the taxpayers' money was spent on compliance with the limitations under the law. Now the interesting thing to me, as I listened to the statement, was every major candidate has been cited for a violation of the law and has been attacked in the press and, what is more, has had large fines assessed to the candidate.

I thought about that. You know, Mr. President, a winning Presidential candidate is President of the United States. He does not have any ethics committee to come to talk to him. He does not face the ongoing inquiry of the Federal Election Commission. And his campaign people become Cabinet officers.

What happens to the volunteers in our campaigns? If we had this type of law applied to the Senate campaigns, if we had the same experience under this law as the Presidential candidates have had, every single one of us would be charged with a crime because of what our campaign staffs had done.

In other words, the current law, which I thought was working so well in financing Presidential campaigns, is actually failing. We have produced two separate bureaucracies that are hounding Presidential candidates over the minute details of the law we passed to help them.

In one case, one candidate thought he was going to lose New Hampshire. His campaign spent $2 million. He won. The State spending limitation was $400,000. We now know they all knew it. He could not have won without the $2 million expenditures.

We now have statements from campaigns that loopholes applicable to delegate and precandidacy committees are big enough to drive a truck through as far as Presidental campaign spending limits are concerned.

It is interesting to note that, in the 1984 election, special interests spent $25 million to defeat President Reagan, to oppose him. They spent 62 percent of the amount of money that was given to the President under the current spending-limit system. Nearly half of the money spent in the 1984 general election for the Presidency, $72 million, was not under the candidate's control and therefore not subject to the limitations which we imposed via the Presidential campaign law of 1974.

Now, as I listened to those things that Senator MCCONNELL was saying, I asked myself: Why should we attempt to impose that on the Senate? And, surely, if we put it on the Senate, it will go into effect for the House. Is it workable?

We went to a meeting last week with the Members of the other side that had been appointed by my good friend the majority leader, to talk about whether we could work out a compromise, and the Republican Members presented a suggestion. We said, "Let us appoint a commission to establish the parameters of proper conduct for Senatorial elections to determine if we can change the system so that the expenditures are not required."

This bill, S. 2, would make potential criminals out of every candidate for the Senate because of conduct of enthusiastic volunteer supporters who would spend or collect beyond the spending limits. It imposes upon each candidate the responsibility for the money that is raised and spent in his name or her name.

But why do we raise that money? Becuase the current campaign system requires the money.

I, for instance, fly home. As my colleague just said, it costs a lot of money for us to fly home. Unless we can plan in advance, it costs well over a thousand dollars to make a round trip to Alaska.

As I said the other day, after I get to Alaska, I travel further within my State than either of my good friends here on the floor travel to get home. And it costs me twice as such per mile to travel within the State as it does to travel to Alaska because the availability of commerical air travel is less and the costs are higher. I can go 2,400 miles to the west, 1,200 miles to the east, a little over 1,000 to the north, 950 to the south and still be within my State. The majority of that travel is by chartered plane.

In my last campaign, I chartered a twin-engine jet for the last 5 days and I was exposed to about 50,000 people directly and through the media. But can you imagine that? Can you imagine me having the money coming out of a Federal financing system to pay for that? Can you imagine me being able to pay for that under the spending limitation of this bill which says the average cost of campaigning in Rhode Island ought to be sufficient for use in Alaska?

It is not just me. What about the mountains of West Virginia? I would be willing to bet the distinguished Senator from Montana, the present occupant of the chair, has some tales of what the cost of campaigning in Montana is. Some of our friends from east of the Mississippi, and particularly those who live east of the Hudson River, do not really understand the cost of campaigning in the West.

But the real point I am trying to make is that S. 2 is designed to find a way to limit contributions and to limit expenditures. But the expenses of campaigning will still be there. And I know that my friends who want to see me elected, just as your friends who want to see you elected, are going to find some way to do it; just like that candidate's campaign committee for the Presidency in New Hampshire found a way to spend $2 million in seeking success in that critical primary.

Now, I think to put us in a position where we get criticism for trying to find the legal means to campaign to meet the current costs is wrong.

Let me tell you again, Senate Republicans have offered to support and we will unanimously support the most far-reaching reform bill in history, today, if we could get it to a vote. Our proposal would reduce costs. It would lower PAC contributions to the same level as the individual—lower them from $5,000 to $1,000.

We would reduce the impact of millionaire spending by giving an individual, whose opponent refuses to say that he will limit his personal contribution to his campaign to less than $250,000, the right to raise additional money.

It would prohibit a person who loaned his or her own campaign money from personal or family sources from recovering those loans via contributions after the election from other parties.

It would for the first time impose controls on soft money—soft money; that is the money that is out there in the political process that is being spent by corporations, by labor unions, by nonprofit organizations that is not currently subject to disclosure. Soft money is a major abuse. We all know it. It is the worst problem in the election process for Federal offices. There are no limits on it at all. We would clear the air on the soft money activities of corporations and labor unions and nonprofit groups by requiring disclosure of that spending. We would not put any limits on it. We would require disclosure of it, and we would require that the people involved in that disclosure reveal to the public how much they are receiving from these various funds themselves.

We would tighten controls on party and special interest campaign activities by requiring full financial disclosure by national party committees and by candidate draft committees of all receipts, independent expenditures and soft money activity.

Now let me point out that is a tough area, too. Soft money is coming in through the party activities of both major parties and even some of the independent parties and individuals. It is coming in. It is corporate money. It is nonprofit money. It is tax deductible money. Soft money is contributed by labor unions under the plans of the labor unions directly to the party committees and national committees and is being spent in campaigns. We know that. It is being spent in get out the vote campaigns and telephone banks that have an impact on our campaigns, and it is being spent to hire people who travel from State to State as campaign consultants.

It is not disclosed. Some of these so-called consultants get paid every year from these funds. They do not have to disclose where they get their contributions or how much money they are making.

These are millions and millions and millions of dollars, totally undisclosed, and we want to disclose it. We want to find a way to limit independent expenditures and we believe we can effectively limit them, again by requiring disclosure.

We would prohibit bundling. Let me tell you, my friends, that is further than BOREN and Goldwater sought to go last year when the Senate, rather than take up the bill and pass it as we should have, referred the bill to com-

mittee and asked the Rules committee to study it and give it back to the Senate.

We ought to compliment Senator BOREN. He was the one who started this. As I said before, he comes from a different type of State then mine. They have a lot of people who have made a lot of money in the oil industry individually. Our State has a lot of money in the State coffers but we have very few individuals that have that kind of money. And they have almost an anti-PAC feeling in Oklahoma.

I think many of us thought, originally, that S. 2 was anti-PAC. We understand it better now and while we think that Senator BOREN brought a good idea to the Senate last Congress, Senator Goldwater was right to join him, S. 2 is not what they originally sought to do. They sought to bring into parity the contributions between PAC's and individuals.

Mr. President, the efforts of Senate Republicans are not properly viewed, I think, in the Nation's press. We are viewed now as being against reform. While I think that it is appropriate that the first amendment gives people the right to say that; as a practical matter, it is wrong. We have proposed and we are prepared to support, as I said, the most far-reaching campaign reform bill that has been presented to the Senate to date. However we are unwilling to deal with limitations on expenditures or Federal financing and I think it is time for us to give full study to the implications of the research that was done by the Senator from Kentucky.

We are now going into, another campaign year. We have already had charges on both sides, and even within each party, of abuses of the Federal Presidential campaign system. That system so far has cost the taxpayers a third of a billion dollars for just one office over the last three elections. This system, if it was imposed on every Member of the House and Senate, would exceed that cost in every election. But the principal problem about it would be that we would create another monster, another group of people hired by the taxpayers—and incidentally, the cost to the taxpayers does not include the cost of hiring all those people who are doing the review of expenditures of candidates in the Presidential system—but we would have to have a whole new group of people to survey compliance with this campaign expenditure limitations law and compliance with the voluntary limits. I too, believe in trying to reduce expenditures in campaigns. But I just wonder how bright the people really think I am.

If I am campaigning in a State one-fifth the size of the United States, can I really create a system that would totally maintain the limits that I voluntarily accept if this bill passed? Could I say that, for sure? Could I come before the Senate and swear that none of the people who campaigned in my behalf spent money that I did not know about and that I had not faithfully reported within that voluntary limit? I think that we should not go in that direction and that is what we are saying. We are saying: Let us try to correct the evils that people have identified.

Mr. President, I sat through those hearings in the Rules Commitee. The proposals that we were presenting in this compromise and that we were willing to support, were supported by Republicans and Democrats. There was not one person that came before us that did not say: Control soft money. That the worst thing in campaigns today, is soft money. They all said control soft money.

How do my friends on the other side propose to control soft money under S. 2? It just is not sufficient. I do think that the impact of the Federal Presidential system is something that we should look at. I will tell you this: If my party regains control of the Senate in this election and I am chairman of the Rules Committee next year, which I assuredly would be, we will look at the Presidential system. We will have oversight hearings that will be in depth, and we will find out why that system is not working.

I think it is a smear on our society and our capability to enact laws that are fair, to be able to show that every Presidential candidate since 1976 has had his campaign committee criticized for a violation of this law that we thought was so good and so helpful for the Presidential process.

Again, I ask every Member of the Senate to understand the difference between candidates for the Senate and the Presidency. We are subject to strict ethics rules. I am a former chairman of the Ethics Committee, and I can assure you that if the defeated candidate would present to the Ethics Committee an allegation of violation by the successful one, notwithstanding the fact that had he won, he would have had the same thing presented against him. Why should we create such a system? Why can we not really reform the system?

I had a discussion last evening with a distinguished member of the press at a social function. It was an off-the-record discussion but I tried to explain to him the whole background of our feeling about campaign expenditure limitations. In the first place, the limitations always have some way of shifting the burden of the current costs of campaigns somewhere else. If S. 2 were passed, the effect would be, in my State, that the money would have to come from somewhere. It would probably come from the party people or from independent expenditures. It would come from the soft money trail into Alaska. Currently, I can tell you, to my knowledge I have never been involved in the soft money trail.

That has not reached out to our State, to my knowledge. It may have through the party campaign activities because of the national system that is developing. But I would much rather have a full disclosure system. I would much prefer to be able to tell my campaign volunteers, and those we are compelled to hire, that we have to report every dollar we receive and every dollar we spend or every dollar we know someone has received and someone has spent, and we are required to maintain one campaign account.

That is much better. When I first came here we dealt with cash. You only had to report contributions of over $5,000. Anything under $5,000 was not even reported. And the whole concept of reform at that time was to bring disclosure and accountability; to let the public know who was bringing money in. I feel we can now go further than that and find ways to bring a greater public support of our system.

I would hope that Members would look at some of the comments that we have made in our minority views to the Rules Committee report. The fact that we would oppose this bill should have come as no surprise to anyone in the Senate. The bill came out of the Rules Committee on a strictly partisan vote. All members of the majority party voted for it. All members of the minority party voted against it.

There has been some surprise expressed here in recent days that we have been so adamant in our opposition when S. 2 came to the floor. It has not been changed sufficiently to meet any of the objections that were raised in the minority report. We have not been able to have a single vote on a single amendment to try and change this bill in the direction of the comments that we have made. When the country is so narrowly divided in terms of political concepts, when we have a four-vote difference that would change control of the Senate, it would seem to me that the public as a whole and the majority ought to look at some of the comments we made as to why we were going to oppose this bill.

I would call your attention to the report that is on the desk of every Senator. On page 63 we set forth totally the outline of our objections. We delivered the opinion of the Department of Justice. We dealt at length with PAC contributions and the impact of the criminal penalties in the bill applying, as they do, to the allegations of wrongdoing that would come up under this bill.

As I said, it was the realization of what that means as applied to the record as exposed now by Senator Mc-

CONNELL, concerning Presidential elections. Again, I would urge anyone who wonders why are we opposing this bill to go back and look at the report that was filed almost a year ago now by the minority of the Rules Committee which had voted unanimously opposed to the bill as it came to the floor.

There is no question that this bill is the wrong solution to the wrong problem offered at the wrong time.

(At this point Mr. BINGAMAN assumed the chair.)

Mr. STEVENS. It attempts to address the problem that is perceived, actually two problems, and they are the role of political action committees and the amount of money that is required expended to be elected as a Member of Congress. As I said before, those are not the problems that need to be solved. The problem that needs to be solved is the change in our overall national economy and a system that constantly increases to cost of campaigns. Let me point out, for instance, that I talked about my cost of flying home.

That is because we are in session prior to elections until at least October. My opponent takes a leave of absence from his or her job probably sometime in August and is at home every single day campaigning.

One of the solutions that was suggested was that we mandate that the Congress not be in session from October on in an election year, that we find some way to prohibit any kind of campaigning for congressional office until the 1st of August. Think what that would mean? We would go home and we would not have to run back and forth every weekend. I might say sometimes I have gone home twice in 1 week to Alaska, 12 hours each way, door to door, and have come back to be in the Senate for an important vote and have gone back again. Why? Because I had to go to a debate that was lined up by some group that knew my opponent was available and did not see why I could not come up on Tuesday night or be there on Thursday morning, and I either go or I see the reports of an empty rocking chair on the television screen because I could not come to meet my opponent in debate.

Why should not we look at this system and say let us get out of here the end of July?

Did you know there is a law on the books today that says that Congress should not sit after July 31?

Some people who came before us had a lot more intelligence about such matters than we do, but at that time it took them all that time to get home.

My predecessors would have gone across the country by train, gotten on a boat and gone up to Seward and gotten on a train, gone again up to Fairbanks. They would have been there about a week or 10 days after they left here. They could not go home twice in 1 week. Those are the changes in our national system, our society, in our economy that have taken place. My immediate predecessor, Senator Bartlett, used to travel home by boat. I have never had that luxury once since I have been in the Senate.

We can look at this system and change it. If I did not have to go home all those times, I would not be spending that money and would not have to collect money from somewhere else to have to pay the costs because that is political transportation, it is not official business.

When you get into the further concepts, let us think of television. We ought to think anew about television.

Every suggestion I have heard so far about television is that we should require broadcasters to give us campaign time, and they say, look over in Europe, that is what happens.

The governments over there own those systems. My little stations in Alaska would not survive if every candidate for the Senate and House was entitled to time in an election year free. They barely survive now.

We have, incidentally, the best system of communication in the country, if not the world. We have cities of less than 100,000 that have two, three, or four competing media: three television stations, two or three AM, two or three FM, one public station in that kind of a market. If we said each one of you have to give political candidates free time, those guys would literally head for the hills and decide to turn into trappers again. They would not be able to survive.

So I have opposed that. I opposed the concept of telling the media they have to give time to candidates. But we all know we have to be on those media if we are going to take our message to the people, and particularly I want to remember the time when I was a challenger. I am one of the few people in the Senate who had two unsuccessful Senate races. I know what it means not to be elected after a tough campaign.

Challengers have a harder time raising money, and we know that. If we are honest about it, we know it. On the other hand, they have some advantages, as I said, because I remember when I was campaigning against my late friend, Senator Gruening, he was back here and I was there, and I took time off from my office, as I said, and I was all over the State. I did not need as much money as he did. I did not spend as much. As a matter of fact, I could not collect as much.

But as a practical matter, what we ought to look at now is how to find a way to buy time nationally. We could find a way, and I would suspect that it is just like the Government buying a fleet of cars. When we buy a fleet of cars for the Government, we get them at a price no one could get individually because we buy so many. Why should we not buy time through some system that is organized and it is available to each of us? If our campaign committees put up the money, we can have our share of it, but buy it on the guaranteed basis we get the lowest rate rather than mandating by law that they have to give it to us free.

I think there are ways to get that and that is again why I suggested let us get a commission, get some people who have lived through this, get some people who have been finance chairmen, get some of the people from the special interest groups like Common Cause and see if we cannot look at this system and come up with some innovative changes with the full knowledge that probably by the turn of the century the system would have changed so much we have to have another commission to look at it to see how technology is developing then. Technology is developing so fast that I believe before we leave the Senate will have direct delivery of Senate television from satellites. I believe we will be able to have messages delivered from one source directly to every home in the country. I believe we will see a system that will mean that we will be able to stand here in the well and transmit directly to my State and vice versa. I really believe that we will have a video screen here, and there on that side, and this will be the Republican side and Democratic side, and I can speak to the Senate from Anchorage or Point Barrow, and I could have my debate, have my rights and protect my rights through the use of the electronic media.

The Constitution says I will have to be here to vote and we will comply with that. We will have periods of voting but we will be more back to the concept former Senator Howard Baker talked about, about "being citizen legislators." We will be able to have two or three periods a year when we are here and the rest of the time we will be home and be citizens of our State and be part of our State and be more knowledgeable about the problems of our State. We try with the system we have now, to have a week every month to go home—and most of us do go home—and we are trying to improve our capability to keep up with our States, but I say, Mr. President, technology is evolving so quickly that we do not even know what the cost of that will be. I would be willing to believe that before I leave we will have systems like that.

Who would have thought when I first got here that you would have a system in the House where you put in a card and vote and they could tabulate the House vote immediately.

I remember sitting in the gallery of the House at the time the Alaska statehood bill passed in the 1950's and

they used to take a lot of votes just by standing. They were in the Committee of the Whole and would have vote after vote and come back and have one or two recorded votes. The reason was it took so long.

We have not gone to the electronic system yet. If a few more of us get caught in that subway and miss a vote simply because we cannot get here within the time allotted, pretty soon we are going to have some sort of a system where we have a notice that says 15 minutes from now there will be a vote. We walk in here and all vote at the same time.

There will be a different concept around here one of these days. That is not so far away.

What I am saying is this bill, S. 2, tries to bring about reform by locking us into the evils of the past and fails to see the problems of the future in terms of campaigning. The problems of the future are going to be great. Currently, it is fairly easy to get to my State because most planes on the way to the Orient will stop somewhere in Alaska. Pretty soon we are going to have extended range planes. We already have them. We have a plane now that will fly directly from New York or Chicago all the way into Tokyo. We have some that are going from Dulles all the way into the Orient. They are not stopping in Alaska. Fairly soon we will be back in the situation where unless we have some reason for people to go to Alaska with a different type of economy, we will be back into a one-flight-per-day situation. Then what will we do with campaign limitations?

I think we are going to have to look at the future and see what can we do to make this system respond to the problems we perceive in the future. We need to try to see if we can avoid the complaints that have come about from the reform system that is in place now. I was on those conference committees that created these bills very soon after I came to the Senate. It finally passed in 1972. I think we had it up before the Senate every year. It was 1969, 1970, and it finally passed in 1972.

Now, it is totally under attack. So that is the reason for S. 2.

Mr. President, let us not forget that we do have a basic conflict here between the two parties on the subject of public financing of elections.

I do not say that to cause any difficulty with my friends on the other side of the aisle. But I just perceive a genuine disagreement. I am one of those who believes that we should not use public money to finance campaigns for the Congress. It comes from a basic, populous, inbred feeling on my part that the public at large should either by the voluntary contribution of their time and effort or their money give their support to the candidate of their choice. Many people cannot spend the time and they contribute money. A great many contribute through the political action committee process which was spawned from the success of the labor movement of this country. We adopted in 1972 the labor created PAC system for the whole country, for everyone to have the ability to form political action committees. The political action committees in my State enable people who want to be involved in the political process to put their money into a central fund and have the fund contribute and have it reported.

Now, I think that the concept of using public financing as proposed by S. 2 is wrong. It says we are going to have voluntary limits but if someone avoids the voluntary limits, money comes out of the Treasury of the United States to help his opponent.

It is just a simple matter of provoking your opponent into making that mistake so you get the money.

The concept of public financing that is to be used as the hammer for compliance to voluntary limits will not work. Why should we expect incumbants and opponents to be more faithful to the law than any other Presidential candidate since 1976? Why should we expect those who come to volunteer in elections that are Statewide or districtwide to have more ability to comply with complex Federal laws than those who surround a Presidential candidate? That is the presumption of this bill, that somehow or other we can find people that will not only live within voluntary limits but will protect the system not only through limits on contributions but through limits on expenditures. Incidentially, Mr. President, it has been the limits on expenditures that have gotten most of the Presidential candidates' committees in trouble.

I think some of us who participated in the 1979's reform that brought about political action committees ought to be more defensive of that system. The comments that have been made even this morning in the paper indicate that we have got to do something about the political action committees, the role of special interests. What do they want to do?

Do they want to go back and give control of campaign committees back to the few, to the wealthy of the country? Would they rather see us go back to the point where we deal with cash? One Senator told me—he is no longer here in Washington—of the time when he was a campaign chairman and he had the duty of carrying a briefcase full of money around the country so that the campaign committees' money could be distributed among the candidates that were not in Washington. And it was legal money, by the way. It sort of raises your hackles to even think about it, does it not?

How do you think soft money is distributed today? How does the Senate think soft money gets to candidates today? In suitcases, in briefcases, in brown envelopes. It is totally unreported. The people that deliver it skim a little bit off the top for themselves, or maybe they skim a lot off the top and give what remains to candidates. We do not know. "Soft money" expenditures are excessive, unreported and GOP Senators are today willing, because we oppose public financing and we oppose limits on expenditures, to address that problem immediately.

The worst problem we face in politics today is "soft money". Why should someone who is running a nonprofit corporation, which we allow to be created under our tax laws for the purpose of providing assistance to the needy, why should they be able to come up with some fancy name, get qualified, and get contributions that are tax deductible and make expenditures that impact a campaign? These contributions are totally unreportable, totally untraceable, and we do not have any reports from them as to what they do with their money—nothing.

We have people who are accusing us of being against reform who are sitting in even this city drawing their salaries from nonprofit corporations, far in excess of what we get paid to be Members of the Senate. They do not have to report their contributions and they do not have to report their salaries. And they are actively involved in the political process, and we know that. We can prove that. The work of the distinguished Senator from Wisconsin, Senator KASTEN, is going to prove that absolutely.

My people who give me money in campaigns, individuals contributing to me contribute their after-tax dollars. At least a quarter of their income is taken first and put in the Federal Treasury, and from the remaining three-quarters they decide to make a voluntary contribution to me.

The people that give to the nonprofit corporations, donate pretax dollars, the corporation does not pay an income tax, and such money is going into campaigns. You want to talk about public financing of campaigns? Let us talk about the taxpayers' money that has to be paid into the Treasury to support the Government because those people that are making tax-deductible contributions to these nonprofit corporations, which do not have to pay a tax on the money that they earn, are making contributions which they know are going to go into the political process. If there is evil in the political system today, it is "soft money". It ought to be addressed, and shame, shame on the majority now that they are unwilling to address that problem. We announced, Senator

Goldwater announced, in the last Congress, we announced again as early as April of last year, "we have two things we will not support: Federal financing of campaigns and limitations on expenditures".

I call upon my friends on the other side of the aisle in the spirit of friendship—and they are my good friends—to look at this problem, and before we finish this tomorrow to once again come back to a compromise meeting.

We had an interminable meeting Mr. President. I would swear to the good Lord that since the beginning of this Congress I have been in more conversations in more rooms about campaign reform than I have in the previous 18 years in the Senate, despite the fact I served on both of the committees that tried to reform the campaign laws in the early seventies.

The work which we have undertaken ought not to be just forgotten because of this dispute and our failure to accept the two principles that the majority knew we were against, which were not in the original Boren bills, and were not in the Goldwater-Boren proposals. They were not in the Boren-Goldwater bill that the Senate said we needed to study last Congress.

Why should we lose momentum from all of the work we put in, the great work of our staff, night after night, week after week, month after month? We now know the complexities of these problems. We have solutions. I want to say that in these meetings with the negotiators, with the majority party, I feel they agreed on many of our points; I do not think there is a disagreement on soft money. I do not believe there is a disagreement on the necessity to try to deal with the "appearance" of the PAC contribution problem. I do not think that a PAC contribution is wrong. But I think there is an appearance of something wrong because PAC's can give $5,000, individuals can only give $1,000.

Someone suggested that we raise the original contribution level to $5,000; others said no, let us reduce the PAC contribution down to $1,000. Originally our position as a party was raise the individual limit. The majority party said no, let us reduce that. That was the original Boren position; reduce PAC contributions. He wanted to reduce the $5,000 level to $3,000. We have now agreed in our conference to reduce it from $5,000 to $1,000. Did you know that? As a result of all these meetings we have a position where all Republicans would agree that we will reduce the PAC limits from $5,000 to $1,000. We also have an agreement on millionaire spending.

We also have an agreement on "soft money." We have an agreement on party and special interest campaign activities, I think, pretty close anyway. We certainly have an agreement on independent expenditures and bundling. Bundling is in S. 2, as a matter of fact. We are so close, so close to a fantastic bill but we have vote after vote after vote on cloture.

I do not criticize the leader for that. He has obviously united membership on his side saying why can we not get this bill passed? This is what we want. And the Constitution gives the minority the right to say you cannot pass that as long as it has these things in it. We just had our little skirmish over that. I think it is going to be fairly sure that this bill is not going to pass with those things in it. But why should not a bill pass that we all agree on?

Again last evening and this morning I was thinking about the fact that we had some real great goals for the Alaska statehood legislation in the late 1950's. Alaskans thought we knew exactly how the bill ought to read. It just absolutely ought to have certain points in it, and we were about ready to say we were not going to have statehood unless these matters were in the bill. We learned a big lesson in the House. When we got to the Senate we said please pass the bill as it passed in the House without change. The Senate did.

The following year when Alaska had representation in the House and Senate, we came to the Congress and asked for a transitional act for statehood that contained many of the things that were left out of the original statehood bill. In that regard, I wonder why is it so important that this bill, S. 2, have precisely everything in it that the majority party wants including those things that are diametrically, just absolutely contrary to the philosophical position of this side of the aisle?

As a matter of fact, if any political scientists were to weigh this bill, they would agree that 95 percent of the content of the bill is subject to immediate resolution between the two parties in this body before the cloture vote tomorrow. If we take out Federal financing and take out campaign expenditures—both of which are used as means to try to achieve the goal of reform, I think we would be in agreement about the goal. We just disagree with those concepts and that they are necessary—just allow us to make one primary addition; that is the bipartisan commission to determine the whole or to look at the whole problem of society as relates to Federal elections, and I think we could have a good bill.

Mr. CONRAD. Would the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. CONRAD. Is the Senator's position that if soft money were included in S. 2, if there were a limitation, restrictions on reporting, that the Senator would then be willing to support overall spending limitations?

Mr. STEVENS. No, I am sorry to say. That is not our position. As I said here before, it was my original position. Even as this debate started last year. I might say one of the reasons I am not manager of the bill—although I am ranking member of the committee was—that I told my side that I would not oppose expenditure limitations as strenuously as others and in other words, I thought they needed an articulate spokesmen for that position.

During this debate as I have said I now have come to the conclusion that they are right, that because of what has happened in the Presidential elections spending limitations per se breed more problems than they solve.

Mr. CONRAD. Would the Senator further yield?

Mr. STEVENS. Yes.

Mr. CONRAD. I heard the Senator say earlier that he would not consider expenditure limitations until and unless soft money reporting, soft money restrictions were included. I mistook apparently the Senator's position. He is not saying as I understand it now that if soft money were included that there would be any chance that he would accept overall campaign limitation?

Let me just, before I conclude that question, say that I find the Senator's position on soft money very persuasive. I have just come through an election campaign in which on the reporting side I was outspent 2½ to 1. I spent about $900,000; my opponent about $2.3 million. I do not know on the soft money side. I spent about $100,000 and from what we can see my opponent probably spent three times as much on the soft money side as I did. So I think the Senator makes a very good case.

I think soft money disclosure ought to be included. I think there ought to be some limitations there too. But it seems to me that still will not get at the problem. We have a situation now in which people have been campaigning for a Senate seat with paid television advertisements in my State for 2 years. Something has gone terribly wrong. I do not see any way to deal with that problem. I would be interested to hear the Senator's response.

How do we deal with the problem of campaigns that have paid advertising going over a 2-year period? It is not a partisan matter. It is happening on both sides. It wears out the electorate, that demeans the process, that leads to all kinds of shenanigans because when you have this money endlessly flowing into campaigns, people look for ways to spend it. You get off into negative campaigns that go beyond the bounds.

I would be interested. How do we deal with that set of problems if we do not have some overall limitation?

Mr. STEVENS. Let me say to my friend, Mr. President, if I led the Senator to believe that there was the potential for a potential deal to be made between expenditure limitations and soft money, I apologize for that.

I do not use a text as you know and if I have left that impression, I appreciate my friends correcting me because I did not intend to leave that impression. I believe that we can get controls on soft money and ought to by virtue of disclosure.

As far as the basic question, however, the Senator has, I think, put his finger on the essence of the problem related to campaign expenditure reform.

As I said, I believe that the way to do that is to look at the changes in society that are driving increasing campaign expenditures, not to put limits on the amount of money that a candidate can spend to deal with those problems. Look at the problems themselves.

When I first ran for office, my campaign statewide cost me a little bit more than $30,000. The last campaign in the same State cost me $1.3 million. I want you to know that in the original campaign I traveled to as many places, I saw as many people as I did in the last campaign. The differences primarily were based upon three things: electronic media, the cost of travel, and the cost of services that are associated with campaigning.

One of the things I have not mentioned, I say to my good friend, and I am sure he is aware of it, is the cost of polling and interpretation of polls to determine and get ready for the kind of negative advertising that has become so prevalent in our society. And that negative advertising, to a great extent, does not come from an opponent. It comes from independent groups that want to be involved and express their opinion as they have a right to do under our system in the political process, the single issue groups mostly in my State.

Now, I do not think we should limit their right to express themselves. I do not think we ought to find a way to contain the media time. I see no reason why there ought to be a race for the time on television. The only reason to tie up time 2 years in advance is to prevent the opponent from getting key time.

A simple answer to that would be, as far as I am concerned, that the networks could come in and change a time scheduled for one of the key programs and all of that time would be irrelevant to the viewers. I mean, the whole idea of spending the money to get the spots that are closest to the high density viewers is so you can get your message across.

I do think we ought to study the campaign financing system, as I said, to see whether or not we should place some time limits upon the Senate being in session. I am told—I have been here long enough now—that once you are in office for a period of time, you have an advantage of name identification. I can remember those days when I was a challenger and did not have name identification. But name identification is brought down to size if my announcements are not coming from Washington. If I am operating out of my office in Anchorage or Fairbanks or Ketchikan or Juneau, there is a different concept. I still believe we ought to force Members of the Congress to leave this town to go home and start the campaign, start everybody at the same time.

Now, there is a lot of disagreement with that. You know, in the British system, as I understand it, you do not know when the election is going to take place. As soon as it is announced—and that does give the incumbent a little bit of an edge to pick the date—then everybody has so many days to initiate the campaign.

We cannot quite do that. We are not going to vary our system because ours is constitutionally established. But I think we could put an impediment on campaign expenditures before a date, and we could say that neither the House nor the Senate can be in session during that period except for an emergency. We can do major things.

Mr. Canfield reminds me that one of the major increases in the costs of campaigns is the requirement to have attorneys and accountants and computers to comply with existing law. The passage of S. 2 would not decrease that cost, it would increase that cost.

Mr. CONRAD. Will the Senator yield for a further question?

Mr. STEVENS. Yes.

Mr. CONRAD. It just seems to this Senator that there is one way to deal with the myriad of problems that are associated with what is currently happening and that is to put some limitation on overall expenditures. Now I would be the first one to say that we ought to include everything. The soft money ought to be up front. Every dollar ought to be reported, ought to be clearly indicated where that money is coming from, who the beneficiaries are, how it is being spent. That is reasonable and that is fair.

But after going through a campaign—an intense campaign, I might say—I have come to the conclusion that there is only one way to deal with all of the potential for abuse that is out there, and that is some way to restrict the overall amount of money that is being spent.

Now the Senator makes a powerful case for the differences between a State like Alaska and a State like Rhode Island. We have to take note of those differences here in the Senate in terms of the expenditures for each office. It would seem to me we could arrive at some way of determining caps based on differenes that exist between States for travel cost and some of the other things.

But I honestly do not know, absent dealing with overall expenditure levels, how you prevent a 2-year-long campaign. And it is not going to end.

I have had colleagues tell me they are going to start going with paid media in the first year after election to the U.S. Senate. They are going to start with paid media the first year after their election to the U.S. Senate. That is when I think the American people are really going to get fed up, when they see people start running paid advertising 5 years before their reelection.

If I might ask the Senator one other question. On the PAC question, you indicate there is a proposal that would reduce banks to the same level that individuals can contribute. Is that not just going to lead to five times as many PAC's? I mean, will not the individual PAC's simply go out and form five PAC's so that they can give $5,000?

Mr. STEVENS. Well, Mr. President, PAC's have been proliferating. Originally, the PAC's were primarily associated with national concerns I think PAC's will continue to proliferate because many have become focused upon local or narrowly defined concerns and I think that there is nothing wrong about that.

Incidentally, it is even more costly under the system to take those $10, $15, $20 contributions and run them through individual campaigns. It would be much easier to run them through a PAC and have a contribution that is reported. And, incidentally, they would be reported if they came from a PAC of any amount. They would not be reported if they came under $100 from individuals. So PAC's actually give us greater reporting.

But let me go back to your basic comment. The interesting thing about the last election, when we lost control on this side, was that each of you that defeated one of my former colleagues on this side spent less; not more, less. Spending per se did not bring about the result. As a matter of fact, those who say that you need more money to offset the value of incumbency ought to look at those results, because it is not necessarily so. The incumbency carries some burdens, and I have already mentioned them in terms of travel and absence. I could discuss some of those, too.

Mr. CONRAD. And record.

Mr. STEVENS. Yes. Well, a voting record is often a matter of image when it comes down to electronic media. When someone jumps up on the campaign and says, "Didn't you vote against S. 2022-A?" The first thing I

say is, "What was that?" But they have got the record of the vote and say, "Didn't you vote that way?" So one of my assistants hurries off and will press the buttons of a computer and go through and get to the Library of Congress and will pull out of my record and come back. And that happens while we are still there, within the same timeframe. And I can say, "You were talking about a motion to table a bill that had something else in it." Now that is illustrative of the change in campaigns for an incumbent.

My opponent does not have to pay that cost. But I had a system that we had available to us on a 24-hour basis that could go through a private telecommunications system and pull voting records out and identify them so I could defend my record. I do not know how many votes I have cast now in 20 years here. But challengers have the liberty and the right under our Constitution to that. We have the obligation to be able to answer those and in order to answer them it costs a lot of money.

I think there is a greater cost today to running as an incumbent than as a challenger. And that is another part of the debate I would like to be in sometime.

Let me tell you this one other thing I do. As I said, it costs over $1,000 to go to Alaska. I have been invited to a number of places. I remember one time I was invited to be at a presentation to a group in Valdez. Now that is the terminus of the great Alaska pipeline. I think the Senator has been there. He knows where it is. It was a weekday. We had business going on here and I could not do that, so I hired satellite time. I got a private group—you cannot use the Senate facilities now in a campaign—I got a group to come in with a camera and we uplinked to the satellite and we dropped this down into the Valdez station that I had hired some people for. They connected into the meeting hall and put up a little screen and I appeared at that by electronic media. It cost about the same as flying home.

Mr. CONRAD. Did it help or hurt?

Mr. STEVENS. Well, I am here. I am here. And the difference is, had I not made that effort, I might not be here. But it certainly is a cost that my opponent did not have to pay and it certainly indicates that incumbents need more money at times to conduct campaigns, to defend their records, to make up for the distance of again being here.

But it comes back to what I am suggesting. We have suggested a commission. Let us look at what is driving the costs of campaigning for Federal office. What are the changes in our society that have brought about these increased cost? High technology, the need to hire accountants and lawyers to comply with existing law, the whole problem of name identification, so many things are involved. We should see if we could suggest to the Congress, have suggested by the Commission, some changes in the system itself which would reduce the costs and in effect bring about the reducing of expenditures that you are seeking. Expenditure limitations in S. 2 that put a limitation on me to the same extent as you, because we have roughly the same population, would mean that I would necessarily miss about all the votes after July because I could not afford to campaign and be in the Senate at the same time.

Now, I say to you that I do not think a system is fair that is based on a "postage stamp concept" that the cost ought to be the same in Rhode Island or in the Rocky Mountains or Alaska, per voter, in dealing with such complex problems.

Mr. CONRAD. Would the Senator yield for a question on that point?

Mr. STEVENS. Yes.

Mr. CONRAD. I think you make a very good case, but are you further saying that under no circumstances would you accept the notion of some overall limit on campaign expenditures?

That is, let us assume for a moment that we could work out a way of adjusting for the differential in costs because of the geographic vastness of your State, the distance from Washington, DC; that we could deal with those differences, that we could find a way to create a formula that would be fair as between the States. Would the Senator from Alaska then be opposed to some overall restriction on campaign expenditures so that your opponent and you would be restricted in some way to the amount of money that can be spent in a campaign for the U.S. Senate from Alaska and the other States of the Union as well?

Mr. STEVENS. I would say to my friend, in terms of campaign expenditure limitations, based upon my feelings now after this debate that has gone on so long, the only limitation that I would accept today would be one that would say that if the candidates involved in the campaign agree to voluntarily establish and expenditure limitation for that campaign, then there would automatically be expenditure limitations placed upon the independents' expenditures and the soft money expenditures in that State and that either candidate could pursue the remedies available under our systems today if his opponent violated the voluntary agreement.

One of our candidates has asked his opponent, who is a Member of the Senate, to sit down and agree to a limit. The difference is that under current Federal law there is no protection for that limit. But it also does not go to the independent expenditure and soft money concept.

I think we could trigger a limitation and I think we ought to do it. I had one of the Members of the Senate on your side of the aisle in the last election come up to me and say: why are you raising this money? You have been here for a long time. Since you have been here you have not received less than 70 percent of the vote. He said, why should you collect and spend that money?

I told him two things. One thing is in this business you never know, do you? You just never know. And if you are not ready for the uncertain things that might happen, then it would be possible for you to let a lot of people down because you had felt that you did not need to be ready. And, second, when it comes right down to it in a State like mine and yours, strangely enough, part of the electronic media's survivability comes about because every 6 years I bring in money to that State and spend it in the election process. Is not that strange? It is really true.

Expenditure limitations ought to be in response to the basic question of the increased costs of campaigning rather than an arbitrary decision as to what a person should spend to meet those costs.

If we still had airplane tickets that cost me $300 roundtrip instead of well over $1,000; or if the costs of a 30-second spot on the television in my State was back to $18 instead of—I do not know, it is well over $3,000 now, I am sure, a 30-second spot; then I would say that the limitations that take us back to the good old days of not spending so much money might be in order.

I still urge you to look at the other side of the coin. Why can we not address the costs? Why cannot we have someone study the costs? Take, for instance, the costs of the computers and accountants and lawyers to file my FEC reports. Those are not just filed in an election year, by the way. They are filed every 6 months for 5 years and then they are filed quarterly and then weekly during elections. The costs of FEC compliance alone is more than my original campaign.

Mr. CONRAD. Would the Senator yield on that point?

Mr. STEVENS. Yes.

Mr. CONRAD. I think the Senator makes a good point. Again I think you make a very good point. I have heard the point made before that we ought to address the costs.

Senator MCCONNELL has made this point. But it seems to me that our side makes a valid point as well and that is restriction on the overall level of campaign funding. For the life of me I do not know how we will end this money chase and how we will end campaigns

that are too long and how we will end the increasingly negative nature of campaigns unless we have some overall restriction on how much is spent. I think it is laudable to talk about costs. It makes good sense. We ought to do that.

But absent some overall limit, the money that you save by the costmeasures will simply flow into some other type of campaigning. It seems unavoidable to me.

So we save money on the electronic media; then the excess funds will simply flow into some other type of campaigning: Negative newspaper ads or negative some other type of campaign.

What concerns this Senator is the spiraling cost of campaigns that leads to what I see as abuse; that is negative campaigning, campaigning that goes on over much too long a period and as a result wear out the electorate. They wind up having less respect for everyone that is involved in the process.

So, again I would just ask the Senator if we have cost savings but no overall limit, do you not just push the expenditure over into some other area of campaigning?

Mr. STEVENS. Yes. I think you do. But I would like us to think anew. Maybe we ought to think back to the Constitution.

The original Constitution says, "The Senate of the United States shall be composed of two Senators from each State chosen by the legislature thereof for 6 years."

Do you want to cut down the problem? Let us repeal the 17th amendment which says we are elected publicly. We could deal with costs and reporting and the whole problem.

My State legislature, God save them, I am sure, would return me and I feel confident, since I was the majority leader of the legislature at the time I came here, that I probably would have made it at that time, too.

Mr. CONRAD. Which House of the legislature would make this determination?

Mr. STEVENS. At the time it was "the legislature," however it was composed. We have one that is unicameral, you know.

All I am saying to you is we are hidebound by the argument now. Take PAC's. I asked my good friend—and I do want to again compliment Bill Canfield, who has been working with me so hard on this. He came to the Rules Committee at my request to work on this issue because I knew what good work he had done on the Ethics Committee when I was chairman of that committee.

One of the things I asked Bill Canfield to review was this: Who are PAC's? In the 1984 cycle, which was the last one we had available at the time we did this, there were 4,000 registered nonparty PAC's. Three thousand of them contributed to a congressional race, 369 made a $5,000 contribution to at least one Senate candidate. One hundred and seventeen—only one hundred and seventeen, nationally—contributed $10,000, $5,000 each in the primary and general election.

Mr. CONRAD. What was that number? How many?

Mr. STEVENS. 117.

Mr. CONRAD. Out of the 4,000?

Mr. STEVENS. Thirty were labor, twenty-seven were corporate PAC's, twenty seven independent PAC's, nineteen were connected with trade or health, three were cooperative PAC's, one was a nonstock corporate PAC.

Incidentally, the record shows that your side got 62.3 percent of all PAC money in 1984 and we got the balance.

Now, all I am saying to you is, as I read in the media about this debate we are having, it is portrayed that I am protecting those vicious things, those terrible innovations on the political scene, the PAC's. Who are they? I think it is incumbent on people to say, who are they?

They are people from all walks of life that are contributing to an entity that Congress created in 1972, in the spirit of reform. In the spirit of reform we said: Let us limit cash. You have to report everything. You have to have centralized accounting. And we are not going to have any more of this money coming in from these groups that comes in in the form of cash. It has to come by check. They have to keep records. They have to file reports, where they got the money from and what they gave it to. We have to file reports where we got the money from and where we spent it.

I still think that was reform. Now, based on those reports we have organizations that say: Do away with PAC's.

Mr. CONRAD. Will you yield on that point?

Mr. STEVENS. Yes.

Mr. CONRAD. Let me give you an example from my campaign. I have been somewhat mystified about the focus on PAC's, frankly. Let me give you an example from my campaign.

My opponent had a very close association with a major corporation. That corporation had a PAC. They gave him $5,000 in the primary, $5,000 in the general election, which they have the right to do. That was the limit, $10,000.

But aside from that, they gave him $24,000 additionally, by officers of the corporation writing out a check, family members of the head of that corporation writing out a check. So, really he got 2½ times as much from individual contributions that were associated with that corporation as he did from the PAC.

Really, I frankly do not see much difference. The bottom line is the overall amount of money that is coming from an interest. I think that is what concerns people. Whether it comes from a PAC or whether it comes from individual officers of the corporation or budgeting of members that belong to some organization that goes out and raises money, I do not see the difference. That takes us back to the central question: Is the bottom line problem not the total amount of money that is going into these campaigns on both sides? You speak quite correctly. I think our side in the last cycle probably did better among PAC's than your side, frankly because of incumbency. In the House side we have a lot more incumbents.

Mr. STEVENS. On the contrary, between 1980 and 1986 we had the majority at the time. We still did worse with respect to the amount of contributions which we received from PAC's as opposed to the level of PAC support which was given to your party.

Mr. CONRAD. I am saying you look at the House side and the Senate side incumbents, we have many more incumbents on the House side. But total dollars, I do not think anybody would disagree, your side has a decided edge.

As you indicated in this last campaign cycle every Democratic candidate spent $1 million less, every challenger, spent $1 million less, or more, than the person on your side.

Mr. STEVENS. That was just the challengers. If you add it all up, I have to say to my friend, you really did spend more. In terms of PAC contributions, as a matter of fact, in this cycle now, for 1987, PAC contributions as I understand it for the last year, for 1987, for the total year there were $7,891,991 for Democratic candidates; $3,687,515 for—these are PAC contributions to incumbent Senators. We are candidates from the day after we are elected, as a practical matter. That is one of the difficulties of the system, because we have people who are collecting money to pay off debts or to prepare for the next election. So we are candidates for 6 years.

All I am saying is if you look at this PAC contribution system, even in this year, 1988, it is running roughly two to one in terms of Democratic contributions from PAC's versus Republicans.

I am not commenting upon the total. I think part of it is the fact that some people are more active earlier in campaigns than others. The real thing I would like to talk about with regard to PAC's is that they are a means to meet the costs. PAC's exist as a reform to the old system where, more and more people were bringing more and more cash into the campaign in a way that was unreportable, unaccountable, and left the impression of illegality.

Mr. CONRAD. Is not that the problem? Have you not just put your finger on what really is the problem? And

that is overall spending? This overall spending has skyrocketed.

Mr. STEVENS. Overall costs. My friend keeps going to spending. I do not think people spend money unless they have costs.

As a matter of fact, I just asked Mr. Canfield, I think we can state there are more Senate candidates who end up in debt than end up with money in the bank, in terms of their campaigns, which shows the problem I think that we have. We still have more Presidential candidates under the system of Federal financing of Presidential campaigns having campaign debts from three elections back than we did before we started Federal financing of Presidential campaigns.

For years people used the Presidential campaign as the model, saying should we not do this? Should we not find some way to finance Senate campaigns and House campaigns from a checkoff, for instance?

As a matter of fact, I have to tell you when I was first in the Senate I almost succumbed to that idea myself because it appeared that the Presidential system was working.

Now I think that the interesting thing about this year is that we can stand in the Senate today and challenge those of you who disagree with us and assert, and I think we can prove, that the Presidential financing system is not working. If what we tried to do was to correct the abuses of the system by providing taxpayer's checkoff money it has not worked. We have more candidates being accused and committees being accused of violating the law than before. We have more candidates ending up in debt than before. We have more people being accused of irregularities than before. The system cannot be working, cannot be as good as we thought it was in view of the known facts.

Now my point to the Senator again, and I think we are about down to the point where we are both going to yield to someone else, my point to the Senator is I hope that in the time left between now and the cloture vote, we again go back and see if we cannot get a bill. I think we can get a bill, and I would urge it.

I see my good friend now from West Virginia. He always gives me a smile in the morning and I am delighted to see him here. I ask him, let us take all the subjects of the bill and I put two subjects up at the top. Expenditure limitations and Federal financing are not acceptable. You take two other concepts which you oppose. Let us take the remainder of the bill and work it out and I will give you a bill by tomorrow that would be the most historic Federal reform bill affecting campaigns in history. One that would be workable. And it will include a provision by which we will appoint a commission to look at the whole system and see how can we bring about a reduction in cost. If we bring about a reduction in cost, the evils of the system of collecting the money to meet the costs would be met.

Mr. CONRAD. Mr. President, will the Senator yield for a final question and comment?

Mr. STEVENS. Yes.

Mr. CONRAD. Let me just say when the Senator says campaign limitation is off the table. That really is the nub of the disagreement.

Mr. STEVENS. That is right.

Mr. CONRAD. Because we on this side sincerely believe that you do not have campaign reform unless you have some overall limits.

My final question to the Senator would be on the question of the PAC's versus the individual contributions. What difference is it really when my opponent has gotten $10,000 from the company PAC and $24,000 from the company officers? What difference did it make whether it was in the form of individual contributions from the officers of the company?

Mr. STEVENS. The difference, as I understand it in the PAC's I am familiar with, is that the PAC's have a much broader base of contribution than the individual officers themselves.

My good friend Bob McNamara of Ford was the one who started the whole concept of executive contributions in the 1960 Presidential campaign when he urged members of his executive group at Ford Motor Co. to contribute to a particular Presidential campaign and be identified as such.

I think we have had increased giving from executives and officers of corporations.

I might say I get some rather substantial contributions from individual officers of organized labor who make substantial money now, a lot more than I do, and they do contribute to my campaign.

I think, as I mentioned before, in Oklahoma it is my understanding that PAC's are almost nonexistent. Most of the large campaign contributions do come from individuals.

Incidentally, the existing limit of $1,000 makes no sense in view of the fact that PAC's can give $5,000. That is why we finally came to $1,000 as a proposed limit for future PAC contributions.

I enjoyed the visit with my good friend.

Mr. CONRAD. I enjoyed my visit with the Senator.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, on another matter—and I propose to go into it at this time; it is 10 o'clock—if it is not out of order and I ask unanimous consent not to be out of order, I would like to make a statement concerning the trip that Senator D'AMATO, Senator RUDMAN, and I made to the Persian Gulf and to present to the Senate a report that we have already conveyed to the chairman of the Appropriations Committee in early January.

THE PERSIAN GULF

Mr. STEVENS. Mr. President, last month Senators D'AMATO, RUDMAN, and I traveled to the Persian Gulf region under the authority of the Committee on Appropriations. Our objective was to assess the cost of our national policy to provide U.S. naval escort for U.S. commercial flag shipping in the region.

I ask unanimous consent that the report from our delegation be printed for the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. STEVENS. Mr. President, our delegation came away from the trip with a very clear understanding that U.S. naval presence in the region has lent a stabilizing influence to an otherwise volatile area. At an estimated cost of $450 million in fiscal year 1988, the price to pay for this stability is not insignificant. But, given the political and economic significance of this region of the world, our involvement is justified if not imperative, if we are to contribute meaningfully in the international balance.

The attendant risks to this policy cannot be understated. One need only recall the U.S.S. *Stark* incident last year to be reminded of the terrible price we have already paid in our endeavor to maintain international order in this volatile sector of the world.

Our delegation's assessments and findings are contained in the report, as well as our reservations. It remains troublesome that our policy is not only costly, but seemingly open-ended.

There are, however, indications that tensions in the gulf may be slackening somewhat. Recent reports over the past few weeks would suggest that our European allies are assuming a greater share of the risk and extending their protection in a more concerted manner. Concurrently, the U.S. Navy has begun to reassess the number and capability of ships required to carry out our policy. I ask that a February 18, 1988, Christian Science Monitor article and two articles from the February 21, 1988, New York Times be printed immediately following my remarks.

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

(See exhibit 2.)

Mr. STEVENS. In the coming months the Senate will be asked again to assess its measure of confidence in a continuation of this policy. In the interim we should remain mindful of the

progress which has been made to achieve some stability.

Our unqualified support of the United Nations endeavor to implement an international trade embargo on Iran would be a significant step in the effort to suspend hostilities in the region. Motivation of the moderate Arab States in the gulf to provide for their own defense and lay pressure on Iraq to suspend air strikes on Iranian shipping would equally serve to ease tensions.

In summary, Mr. President, we have found that our continued presence in the gulf serves a very valuable objective. Our assertion and protection of the right of free passage in international waters serves notice to any belligerent state that the United States is prepared to protect its interests. Continued encouragement of our international partners to do the same in defense of this common principle assures that we need not "to go it alone" in this task.

EXHIBIT 1

REPORT ON U.S. PRESENCE IN THE PERSIAN GULF—COST AND POLICY IMPLICATIONS

INTRODUCTION

The United States has had a naval presence in the Persian Gulf since World War II to protect its own interests, and those of its allies, in the region. Our interests include the maintenance of an unimpeded flow of oil through the gulf, continued security and stability of the relatively moderate states of the gulf and the surrounding region, and a limitation or reduction in the Soviet Union's influence in the region. These interests are likely to outlast any near-term changes in the political equation of the gulf, and our presence, therefore, is likely to continue. The delegation firmly believes that the United States cannot abandon its long-term commitment to the region without serious damage to our interests there and in other parts of the world. There are legitimate questions, however, about present policy in the gulf as it relates to operation of the U.S. Navy and the escorting of reflagged Kuwaiti tankers, and how the evolution of that policy may affect the long-term interest of the United States and the gulf nations.

The January 3-11, 1988 trip to the Persian Gulf was undertaken based on the suggestion and under the the authority of the chairman of the Committee on Appropriations, Senator John C. Stennis. The delegation included committee members Senators Ted Stevens, Alfonse M. D'Amato, and Warren Rudman, accompanied by Frank Sullivan, Keith Kennedy, and Sean O'Keefe, professional staff members of the committee and Capt. Francis Holian from the U.S. Navy. Five other members of the committee has planned to be part of the delegation but were constrained by other commitments. The delegation visited Bahrain, Oman, Kuwait, Egypt, Israel, and Belgium, and held meetings with the officials listed below:

Itinerary—Bahrain

Shaikh Isa bin Sulman al-Khalifa, Amir of Bahrain.

Shaikh Mohammad bin Mubarak al Khalifa, Minister of Foreign Affairs.

Tariq 'Abd al-Rahman Almoayed, Minister of Information.

Yousuf Ahmad al-Shirawi, Minister of Development and Industries.

The Honorable Sam H. Zakhem, U.S. Ambassador to Bahrain.

Rear Adm. Dennis M. Brooks, Commander, Joint Task Force, Middle East.

Rear Adm. Harold J. Bernsen, Commander, Middle East Force.

Cmdr. Steve Smith, Commanding Officer, U.S.S. *Chandler.*

Yusuf bin Alawi bin Abdullah, Minister of State for Foreign Affairs.

Air Marshal Erik Bennett, Commander, Sultan of Oman's Air Force.

The Honorable G. Cranwell Montgomery, U.S. Ambassador to Oman.

Kuwait

Saud Mohamad al-Osaimi, Minister of State for Foreign Affairs.

Shaikh Ali Khalifa al-Athby al-Sabah, Minister of Oil.

The Honorable W. Nathaniel Howell, U.S. Ambassador to Kuwait.

Egypt

Field Marshal Muhammad Abdel Halim Abu Ghazala, Deputy Prime Minister and Minister of Defense and War Production.

Israel

Yitzhak Shamir, Prime Minister.

Shimon Peres, Vice Prime Minister and Foreign Minister.

Yitzhak Rabin, Minister of Defense.

Belgium

Lord Peter Carrington, Secretary General of NATO.

Marcello Guidi, Deputy Secretary General of NATO.

Mack Mattingly, NATO Assistant Secretary General of Defense Support.

The Honorable Alton Keel, U.S. Ambassador to NATO.

Gen. John Galvin, Supreme Allied Commander, NATO.

U.S. NAVAL ESCORT PROCEDURES

Current conditions

Tasked with the responsibility to protect U.S. flag shipping in the gulf, the U.S. Navy evaluated the level of conflict in the region to be an extension of the Iraq-Iran war which had previously been confined to land engagements north of the Persian Gulf.

During 1987, a total of 162 ship attacks were recorded. The number of instigations are divided almost equally between Iraq and Iran. The U.S. Navy notes a pattern of Iranian attacks against commercial shipping of various international origin in direct response to Iraqi air strikes against Iranian shipping.

U.S. convoy tactic

Based on the seemingly indiscriminate targeting of commercial shipping by the Iranians, the U.S. Navy elected to escort U.S. flag vessels in the gulf by convoy. This procedure calls for alignment of commercial and military vessels in a column for transit from the Gulf of Oman, through the Strait of Hormuz and northwest through the Persian Gulf to within 50 miles of Kuwaiti ports. For the 11 reflagged Kuwaiti tankers, the Government of Kuwait agreed to bear responsibility for protection for 50 miles from port of embarkation or destination in Kuwait.

The convoy tactic extends to all U.S. flag vessels. Thus far, the only other U.S. flag shipping in the region has been vessels chartered or owned by the U.S. Government carrying cargo under contract with the Military Sealift Command. By circumstance, other commercial shipping in the region have benefitted from the convoy procedures by joining the column formation. But U.S. Navy officials in the region assert that not more than two or three foreign flag carriers "piggy-back" to the column for each convoy mission.

Through December 1987, the U.S. Navy conducted 23 convoy transits with a total of 56 ships since July 1987. Other than the Bridgeton mine strike incident which occurred on the first convoy in July, there have been no other incidents of attack on commercial vessels escorted by the U.S. Navy.

Iranian mine-laying operations also appear to have taken a downturn since the seizure of a mine-laying vessel last fall. A senior U.S. naval officer in the region viewed the absence of mine incidents to be an Iranian attempt to "bore us to death." U.S. Navy officials in the region are concerned that the comparative calm not give way to a relaxing of alert and readiness conditions aboard military vessels.

The U.S. Navy's rules of engagement for convoy vessels are clear. If any vessel in the convoy is fired upon, the Navy escort vessels are authorized to respond accordingly. The Navy's preference for the convoy tactic permits timely response in such instances. Any foreign flag vessels attacked within range of the convoy are not similarly protected.

Scope of U.S. naval presence

Since convoy operations commenced last summer, the Navy now maintains approximately 30 surface combatants in the region. This includes an aircraft carrier and battle group in the northern Arabian Sea and convoy escort vessels in the Persian Gulf and the Gulf of Oman. By numbers, roughly one-half the vessels assigned are deployed in the Persian Gulf or outside the Strait of Hormuz in the Gulf of Oman. The other one-half of the fleet is deployed in the northern Arabian Sea. In addition to the convoy escort vessels in the Persian Gulf, the U.S. Navy also stations destroyers to patrol particularly active segments of the gulf around the Strait of Hormuz and the northern gulf near Kuwait.

In general, the ships operate on a 6-month rotation schedule which includes 1 month each for transit from and return to home port. On average ships assigned to the region will spend 4 months on station.

The following table lists the types of U.S. surface combatants in the region in early January 1988:

U.S. naval forces in the gulf region

Aircraft carriers	1
Battleships	1
Minesweepers	6
Guided missile cruisers	4
Guided missile destroyers	2
Destroyers	2
Guided missile frigates	5
Frigates	2
Auxiliary landing ships	2
Auxiliary support ships	5

Other international practices

In addition to the United States, there are five other western alliance nations operating military forces in the region: the United Kingdom, France, Italy, the Netherlands, and Belgium. The extent of naval presence for these nations ranges widely from aircraft carrier group commitments to minesweeping units.

The various western alliance forces communicate regularly, but specific escort tactics are not coordinated. In short, each na-

tion's military presence is dedicated to its commercial shipping.

The United States is the only naval force which adheres to convoy procedures. Most of the other western alliance forces either accompany its commercial shipping through the most hostile areas, particularly the Strait of Hormuz, or simply patrol sections of the gulf. The U.K. forces frequently station ships within range of commercial shipping in a picket formation. As commercial shipping passes through each sector, responsibility for protection transitions to each unit.

Few of the other western alliance forces operate continuously in the Persian Gulf. Most transit from the Gulf of Oman into the Persian Gulf only when commercial shipping protection requirements arise.

The Soviet Union also operates naval combatants in the region. No particular tactical patterns are evident to characterize Soviet escort procedures. Recent observations include accompanying flag carriers through particularly hostile sectors of the gulf and normal patrol maneuvering.

Other allied nation presence

Aircraft carrier	1
Destroyers	6
Frigates	6
Minesweepers	14
Auxiliaries	6

COST OF U.S. NAVAL PRESENCE

Prior to reflagging the 11 Kuwaiti tankers, U.S. naval presence in the gulf and the northern Arabian Sea numbered 3 to 4 capital surface combatants on average. Since the tanker reflagging and concurrent decision to escort with combatant ships, the presence has expanded to approximately 30 ships. The number of vessels in the Persian Gulf and northern Arabian Sea will vary depending on the number of tankers within each convoy movement and rotation of U.S. Navy ships between the gulf region and U.S. coastal or Mediterranean ports.

Similarly, the number of Navy personnel varies depending on the fleet configuration. But as a representative sampling, nearly 10,000 naval personnel were recorded as having collected imminent danger pay in the fall of 1987.

At the start of fiscal year 1987, the Office of the Navy Comptroller estimated costs of $6,000,000 to $8,000,000 per quarter for operation of the Middle East task force operating in the Persian Gulf region. Coincident with the reflagging decision, costs were revised upward. Estimated cost incurred for the fourth quarter of fiscal year 1987 was $115,200,000. Of this amount, the Navy Comptroller determined roughly half the costs would have been expended to operate vessels under normal operating schedules regardless of location. Actual incremental cost absorbed within the Navy's operating appropriations account was $60,000,000 for the fourth quarter of fiscal year 1987.

In addition to Navy incurred expenses, the Air Force estimated a cost of $7,700,000 for reconnaissance and refueling aircraft to support convoy operations in the fourth quarter of fiscal year 1987.

An as yet unknown cost which may be substantial is the additional maintenance expense for Navy ships and aircraft operating in the Persian Gulf region. The primary expense will accrue from the accelerated operating time which has been more than three times the rate planned.

Normal ship operation schedules include steaming time of usually not more than one-third the days of each quarter. The convoy and patrol duty not assumed by Navy ships in the region require virtually continuous operation throughout the quarter. Consequently, the maintenance requirements for ships returning from the region are expected to be much more expensive than under normal operational schedules.

A secondary factor which may add to maintenance costs is attributed to the environmental conditions of the Persian Gulf region. Wide temperature variances and the presence of sand in the air over the region have exacerbated equipment conditions. Spare and repair parts consumption account for about 20 percent of the incremental costs incurred. This indicator causes some concern to Navy planners that maintenance and repair costs may be understated in the fiscal year 1988 budget.

INCREMENTAL COSTS

Based on the fourth quarter 1987 experience, Navy Comptroller estimates for fiscal year 1988 approach $450,000,000 assuming the level of operations remain the same through the year. Of this total cost estimate, the Navy considers $179,000,000 to be the incremental cost estimate above expenses which would be incurred under normal fleet operations. At the time of printing for this report, indications were that this estimate may rise $10,000,000 or more.

But these initial estimates assume some reduction in steaming time over the year and account for some offsets to the total cost. Based on ship rotation schedules, the Navy expects monthly incremental cost increases of $15,000,000 to $17,000,000 through fiscal year 1988.

The following table summarizes actual fiscal year 1987 and projected fiscal year 1988 costs by element of expense:

MIDDLE EAST FORCE INCREMENTAL COSTS

[Actual fiscal year 1987 costs]

	July 1987	August 1987	September 1987	Cumulative
Aircraft operations	$1,848,000	$3,559,000	$1,915,000	$7,322,000
Ship operations	1,779,000	17,314,000	7,588,000	26,681,000
Airlift	3,800,000	2,617,000	413,000	6,830,000
Travel—indirect	123,000	83,000	20,000	226,000
Travel—direct	371,000	735,000	115,000	1,221,000
Other	120,000	2,467,000	268,000	2,855,000
Transportation		10,095,000	3,532,000	13,627,000
Imminent danger pay		553,000	713,000	1,266,000
Total	8,041,000	37,423,000	14,564,000	60,028,000

ACTUAL FISCAL YEAR 1988 COSTS

	October	November
Aircraft operations	$2,738,000	$757,000
Ship operations	8,584,000	8,991,000
Airlift	667,000	20,000
Travel—indirect	28,000	13,000
Travel—direct	1,275,000	1,158,000
Other	1,414,000	999,000
Transportation	1,333,000	2,007,000
Imminent danger pay	1,063,000	1,015,000
Total	17,102,000	14,960,000

PROJECTED FISCAL YEAR 1988 COSTS

Aircraft operations	$1,915,000	$5,745,000	$22,980,000
Ship operations	7,588,000	22,764,000	91,056,000
Airlift	413,000	1,239,000	4,956
Travel—indirect	20,000	60,000	240,000
Travel—direct	115,000	345,000	1,380,000
Other	268,000	804,000	3,216,000
Transportation	3,532,000	10,596,000	42,384,000
Imminent danger pay	1,063,000	3,189,000	12,756,000
Total	14,914,000	44,742,000	178,968,000

POLICY CONSIDERATIONS

Increased U.S. Navy presence in the gulf in 1987 resulted from the attack on the U.S.S. *Stark* and the decision to agree to the request of Kuwait to put 11 Kuwaiti ships under U.S. flag for escort by U.S. warships, ostensibly to assure the free passage of oil down the Persian Gulf through the Straits of Hormuz, and into the Gulf of Oman. With the exception of the *Bridgeton's* encounter with a mine, the escorting operation has been successful. However, it is clear that the U.S. presence in the gulf has far less to do with oil than it does with the politics of the region.

OIL SHIPMENTS THROUGH GULF

The 11 reflagged Kuwaiti ships consist of 1 crude oil carrier, 4 liquefied petroleum gas carriers, and 6 petroleum product carriers. U.S. Embassy personnel in Kuwait advised the delegation that these 11 ships carry approximately 5 percent of total Kuwaiti export volume. The value of petroleum products shipped on reflagged vessels as a percentage of total Kuwaiti exports was unavailable, but it is unlikely that the percentage would be significantly higher than the 5 percent of volume. Information supplied in briefings by U.S. Navy personnel in the gulf further supports the conclusion that the United States has established a very significant presence relative to the amount and value of petroleum products under the protection of the escorting operation. Through December, the Navy had escorted 56 ships in 23 transits of the gulf. This compares to annual traffic through the Straits of Hormuz of about 12,000 ships.

SUPPORTABLE LOSSES

Furthermore, officials of the Sultanate of Oman contended that shipping losses of approximately $250,000,000 prior to the initiation of the U.S. escort operation were supportable in comparison to the total value of the oil economy of the gulf states, and could be endured.

The Kuwaitis, of course, do not view the shipments of oil under U.S. escort to be insignificant, and indicated that they would turn to other nations, notably the Soviet Union, if the United States were to withdraw its protection. In fact, the Kuwaiti Government asked all five permanent members of the U.N. Security Council for assistance prior to the U.S. decision to reflag and escort Kuwaiti tankers. But it is the view of the delegation, supported by officials in other gulf states, that the primary goal of the Kuwaiti Government, and the benefit of the United States involvement, is not economic protection but political stability.

Notwithstanding the different views of the escorting of oil shipments as a rationale for the increased U.S. presence in the gulf, it is clear that increased presence has been welcomed and is widely supported. Government officials in the gulf states of Bahrain, Oman, and Kuwait, as well as in Egypt and Israel, expressed the view that the increased U.S. presence has achieved a number of beneficial political and military results.

IMPROVED REGIONAL STABILITY

There is widespread fear, particularly in the gulf states with significant Shi'a Moslem populations, that the Iranian revolution will be exported to other nations in the area, and the increased regional stability resulting from U.S. presence has enabled the moderate Arab nations to make common cause in countering the Iranian threat. In this context, perhaps the most remarkable benefit of the renewed U.S. com-

mitment to the gulf region was expressed in the flat assertion of Egyptian officials that only the U.S. initiative in the gulf has allowed Egypt to reopen relations with the gulf states, evidenced in Egyptian President Hosni Mubarak's recent visit to the Persian Gulf region. It should be emphasized that this development is strongly supported by the Government of Israel, whose Prime Minister and Foreign Minister repeated to the delegation prior public statements of Israel's support for the U.S. presence in the gulf and the resulting stability of the moderate Arab nations.

U.S. RESPONSE

While attacks on tankers and production facilities in the gulf have not ceased, they have diminished, and there have been no attacks on ships escorted by the United States since the *Bridgeton* mine incident, and there is generally increased confidence in the security of oil shipments in the gulf. The credibility of the United States was further bolstered by the destruction of the Rashadat oil platform in retaliation for the attack on the *Sea Isle City* by an Iranian gunboat in October 1987. This measured response is viewed as precisely appropriate to Iranian provocation—effective, but not confrontational.

ROLE OF IRAQ

As much as the moderate gulf states welcome the U.S. presence and its beneficial effects on regional stability, however, there remains a concern that Iran not be totally isolated. The delegation often heard the view that, "Iran will be with us for many years to come, but we do not know how long the United States will stay." Government officials noted that of the 162 successful attacks on shipping in 1987, 78 were made by the Iranians and 84 by the Iraqis, and the suggestion was made in all three gulf states visited by the delegation that the United States should do more to discourage Iraqi attacks in the hope that the Iranians would desist as well. U.S. Navy personnel in the area supported this view in expressing the opinion that Iranian attacks were primarily reactive, and an Omani official declared that he could "guarantee that if the Iraqi attacks stop, the Iranian attacks will stop."

A cessation of Iraqi attacks on shipping in the gulf would also substantially reduce the necessity for an increased number of American personnel and ships in the area. The risk of accidental air strikes is just as significant to the U.S. Navy as premeditated attacks. According to U.S. Navy officers serving in the gulf, "The Iraqi air force in the northern gulf is a major threat to the U.S. Navy," a threat clearly demonstrated by the unintentional attack on the U.S. *Stark*.

In the crowded conditions of the gulf, there is little time to distinguish friend from foe and determine the intentions of oncoming aircraft. Clearly, a reduction in Iraqi air missions would reduce the risk to the U.S. escort operation and help temper the conflict with Iran in the gulf.

GULF STATES LIMITED ROLE

A more vivid example of the moderate Arabs reluctance to antagonize Iran was made known to the delegation during an official visit. The delegation was informed that the Kuwaitis have an observation post within artillery range of the Iranian Silkworm missile site from which attacks have been launched on Kuwaiti targets, but that to date the Kuwaitis have only watched as attacks have been launched and have made no attempt to destroy the site themselves. The delegation also learned that Saudi Arabia has several new minesweepers that could be deployed in the gulf, but those ships have not been committed to date.

DEPENDENCE ON GULF OIL EXPORTS

U.S. interest and motivation for seeking peace in the gulf are linked to the enormous petroleum reserves in the region. The gulf OPEC states produce better than 22 percent of world fuel consumption needs. Last year, 6 percent of our national oil consumption was met by Persian Gulf exports. By contrast, 25 percent of Europe's and over 60 percent of Japan's fuel requirements were drawn from gulf reserves. Clearly, U.S. interests are served by stability in the region, but Western European and Japanese oil demands suggest the criticality of unimpeded exports.

Recognizing their oil dependence in the region, five nations of the Western European Union have deployed naval forces to the gulf while the remaining two countries of WEU have taken compensatory action with the other five nations to assist in this effort. While reluctant to formalize a cooperative agreement for military activities in the gulf, WEU nations are making some commitment to protection of shipping. This is further substantiated by indications that some members of the WEU will coordinate minesweeping activities.

Roughly 20 percent of Japan's consumption of oil from the gulf region is met by Iranian reserves. In response to Western calls for an economic boycott of Iran, Japan's Ministry of International Trade and Industry has ordered a 242,000-barrel-per-day limitation on imports of Iranian oil. This is a decline from an average 300,000 barrels per day imported from Iran in 1987.

There is some indication of Western alliance nation requests for financial support of gulf activities, but no other signs of Japanese involvement in the region are evident.

BALANCED U.S. POLICY

The reluctance of the gulf states to do more to protect their own interests is frustrating, but their reluctance to prove Iran should serve as a reminder to the United States and the nations of the Western European Union that are involved in the Persian Gulf to pursue a balanced, measured approach. The wariness of the gulf states may also lead the United States to reexamine its present method of operation. If the issue is political stability in the region and not the protection of the 11 reflagged Kuwaiti tankers per se, should we devote such significant resources to that effort? If we are to expand our role beyond that of our escorting operation to the protection of all shipping in international waters, should we do so alone or in cooperation with other nations in the gulf? Most importantly, under what circumstances are we prepared to reduce our presence in the gulf?

OPTIONS FOR CONSIDERATION

The primary military objective for U.S. Navy presence in the Persian Gulf has been to assure protection of U.S. flag carrier shipping. No attacks have been launched against such vessels since the policy was initated.

The narrowly defined policy has had the effect of limiting U.S. military risk and commitment while indirectly moderating violence in the region overall. The incidents of attacks have not increased overall and military observers continue to see a pattern of Iranian retaliation only in response to Iraqi air strikes against Iranian shipping.

While the "tanker war" in the gulf appears to have been contained, without question, violence in the region does persist. The existing U.S. policy is achieving the desired results, but continues to be open ended. Expansion or contraction of U.S. presence is scenario dependent. The following options detail possible alternative strategies for U.S. activities and describe the desired circumstances.

U.S. MILITARY WITHDRAWAL FROM THE PERSIAN GULF

U.S. presence in the region could revert to conditions existent prior to the Kuwaiti tanker reflagging if the conduct and response to the Iran-Iraq war changed. Clearly, a cease fire between the belligerents could eliminate the need for continued protection of shipping.

Alternatively, a conclusion to the "tanker war" segment of the ongoing conflict would also present opportunities to draw down U.S. naval presence. Commercial shipping attacks seem to have negligible impact for either Iraq or Iran. Despite Iraqi air strikes, Iranian shipping continues to be profitable. Conversely, Iranian attacks on international shipping have registered no discernable impact on the Iraq war effort.

If the gulf states assumed more responsibility for protection of commercial shipping in the region, this condition could also help diminish U.S. military involvement in the gulf. Entreaties to Saudi Arabia to use its minesweeping assets and to Kuwait to actively respond with its air defense emplacements could help ease U.S. responsibilities in the region.

UNITED NATIONS PEACEKEEPING FORCE

Absent a cease-fire in the gulf tanker war, each nation with commercial shipping interests in the region must assess its willingness to protect its right of navigation in international waters. Given the universal commitment to this principle, U.S. presence and risk in the region could be altered by an international decision to establish a U.N. peacekeeping force to respond to aggression against any commercial shipping attacked outside the war zone. While philosphically appealing, movement toward such a decision should clearly define rules of engagement against acts of aggression. This is particularly important in light of the nature of any cooperative agreement between western alliance and Soviet alliance nations.

At a minimum, any U.N. agreement should incorporate endorsement of an arms embargo to the belligerent nations.

WESTERN ALLIANCE COOPERATION

Under the auspices of the Western European Union, several of the western allies have resolved to establish an active presence in the Persian Gulf region. Expansion of this example to a formal NATO policy appears unrealistic since the gulf problem is out of the NATO sphere of interest. However, a better defined policy among western alliance nations to protect commercial shipping of mutual interest could contribute to a toning of the U.S. policy in the region.

Promising signs of such cooperative agreements have surfaced in recent weeks. The French, Italian, and United Kingdom minesweeping coordination effort is further indication of progress in this area.

UNILATERAL U.S. EXPANSION

While a contained policy at present, U.S. commitment to the region applies exclusively to U.S. interests. Adherence to a policy of protection of any commercial vessel's right to free passage in international waters is a more expansive application of universal principle. Absent a similar adoption of prin-

ciple by other nations of the world, however, would create extensive risk and staggering cost to the United States.

CONCLUSIONS

The delegation's primary focus on the Persian Gulf was to examine the costs involved to maintain our military presence in the region. The cost estimates are heavily influenced by the direction of our foreign policy in the region and the manner in which it is carried out.

Continuation of the present policy by the means established since July 1987 is expected to cost upward of $450,000,000 in fiscal year 1988. Incremental expenses beyond estimates to operate the ships deployed under normal conditions are expected to be $179,000,000 through the balance of the year. By contrast, it would cost $14,400,000 to maintain a presence in the gulf comparable to conditions which existed prior to naval expansion last summer.

U.S. economic dependence on the gulf region is minimal when contrasted with the other world industrial nations. While U.S. investment in the Persian Gulf presence is not linked to our vital economic interest, it has lent a stabilizing influence to the region and, thereby, a benefit to other world economic interests. Similar commitments from other nations would signal international resolve to the belligerents of the region that economic interests will be protected.

The underpinnings of our policy are linked to the principle of freedom to navigate in international waters. At present, a national willingness exists to bear the financial burden in support of this principle. But support may yet prove to be frail if the cost is to be paid in human life from our military personnel assigned to carry out the policy. More commitment by other nations to this common international principle may not lessen the human risk involved, but it would share more equitably.

The United States has accrued other benefits from our presence in the form of improved relations with moderate Arab states in the gulf. But these strengthened ties are contingent upon continuation of an open-ended policy to remain in the region for as long as the threat persists. We may elect to incur these costs in support of principle and in pursuit of continued benefit, but must be mindful of the associated risks. Assessment of risk and willingness to rethink the policy must remain on Congress' agenda for the foreseeable future.

[From the Christian Science Monitor, Feb. 18, 1988]

U.S. RESOLVE STAYS HIGH IN GULF: MISSION UNCHANGED THOUGH NAVAL FORCE IS REDUCED

(By Warren Richey)

MANAMA, BAHRAIN.—The withdrawal of four United States warships from the Gulf region is a routine adjustment that doesn't undercut US resolve to protect its commercial shipping here. That is the official US line, and one the Arab states of the Gulf seem to accept.

Still, Iran is using the force reduction for propaganda purposes, suggesting on Radio Tehran that the US is retreating from the Gulf. "After the defeat of its militaristic policy in the Persian Gulf, Washington is looking for a face-saving way to get out of this international waterway," Radio Tehran proclaimed Wednesday.

Last month's visit to the region by US Defense Secretary Frank Carlucci was in part designed to prevent any US "friends" on the Arab side of the Gulf from coming to such conclusions.

But what does concern the Saudis and Kuwaitis is the unresolved issue of whether US forces will eventually also protect neutral commercial ships under threat of unlawful attack in the Gulf's international waters—as France has announced it is prepared to do. The other naval powers in the region—including the US—have so far been cool to the idea, stressing that their missions are strictly limited to protecting only ships flying their own flag.

Just by their presence, the warships in the Gulf serve as a calming and protecting influence, which benefits all shipping in the vicinity. But such spillover protection hasn't prevented the Iranians from stepping up attacks this year against unescorted ships trading with Kuwaiti and Saudi ports.

The Iranians are not expected to gain tactical advantages as a result of the withdrawal of the four US warships.

As described by US Defense Department officials, the redeployment will permit the US Navy to lower marginally its high profile in the tense region. Also, the move will reduce the cost—$20 million per month by some estimates—of maintaining the large naval task force.

With the pullout last weekend of the US battleship Iowa and two escort ships—a cruiser and a destroyer—and later this month the helicopter carrier Okinawa, the US naval force will stand at 24 ships, down from more than 40 vessels last fall. The US task force will remain, nonetheless, the most significant and potent concentration of military power in the rgion.

US officials stress that the remaining naval ships will be more than enough to continue protecting Kuwaiti tankers reregistered last year under the US flag and the small number of other US-registered ships that call in Gulf ports. They note that while the threat of mines in Gulf waters has diminished, US and Western European mine hunters stand prepared to resume operations if needed.

Along with the announcement of the US force reduction, the US has announced its intention to iron out an arrangement with Iraq to prevent any repeats of last weekend's close call when an Iraqi bomber fired two anti-ship missiles in the vicinity of a large US-escorted convoy of tankers in the southern Gulf.

The missiles are said to have flown within eight miles of a US warship at the rear of the convoy before exploding on the horizon. The warship's crew went to battle stations in preparation to shoot down the incoming missile, if necessary.

The incident was the closest encounter between an Iraqi pilot and a US convoy since the accidental May 17 Iraqi missile attack on the US frigate Stark in the central Gulf. Thirty-seven US servicemen died in that attack.

A US military team is expected to visit Baghdad later this week to press home to the Iraqi regime the need for greater care by its fighter pilots in identifying potential targets for missile attacks.

Some Iraqi pilots are said by military analysts to anxiously fire their missiles at any large "blip" on their cockpit radar screens, simply assuming the blip to be an Iranian tanker or other war target.

[From the New York Times, Feb. 21, 1988]

WHAT PRICE U.S. PATROLS IN THE GULF?

(By Richard Halloran)

WASHINGTON.—Amid conflicting calculations by officials over the cost of United States military operations in the Persian Gulf, it is clear that costs have risen and that little relief is in sight, despite the decision last week to reduce the naval force there slightly.

Only a basic policy change would end the American presence in the gulf, and neither President Reagan nor any Presidential candidate has espoused that.

Many military officers and political officials maintain that even if Soviet forces were withdrawn from Afghanistan, this would not lead to an American revision of the commitment to retain Western access to gulf oil.

Nor would peace between Iran and Iraq, now in their eighth year of war, do much to change the deployment of American warships, the United States would continue to patrol the vast region including the Arabian Sea and Indian Ocean.

Last week, 18 ships were on patrol inside the gulf and eight, including the aircraft carrier Enterprise, were steaming just outside. In the Indian Ocean were 16 more ships, including the carrier Midway and her escorts heading for the Pacific.

But there is an apparent contradiction in American policy. On the one hand, it calls for continued spending of large sums for operations in the gulf. On the other, the President and Congress have agreed to hold down military spending, which is reflected in the defense budget the White House submitted last week to Congress.

The present commitment to the Persian Gulf began after the Soviet Union sent troops into Afghanistan in 1979; President Carter proclaimed that a Soviet attempt to control the gulf "will be repelled by any means necessary, including military force." Two years later, the Reagan Administration expanded the commitment when the Pentagon's strategic plan, in a directive called Defense Guidance, outlined a "disproportionately larger investment" in forces for gulf operations.

"The Soviet Union must be confronted with the prospect of a major conflict should it seek to reach the oil resources of the gulf," the plan said. "We would be prepared to introduce American forces directly into the region should it appear that the security of access to the Persian Gulf is threatened."

The former Secretary of the Navy, John Lehman has estimated the total cost of the gulf commitment—forces, training, operations, bases, support—to be 20 percent of the military budget, or about $40 billion a year.

In contrast, the Defense Department has said that naval operations in the gulf in 1988 will cost the taxpayers only $175 million more than would be spent if the ships were someplace else and not operating at such a high tempo. In between are varying calculations.

William Kaufman, an economist at the Massachusetts Institute of Technology who specializes in defense budgets, has estimated that 6.6 percent of annual American military spending goes to protecting United States interests in the gulf. Applied to the 1988 budget, that would come to $19.2 billion.

The Center for Defense Information, a research organization critical of defense

spending, estimated naval operations at $1.4 billion a year. Brian McCartan, an analyst at the center, figured that it cost $2.50 to bring $1 worth of oil out of the gulf.

Senators Ted Stevens of Alaska, Alfonse M. D'Amato of New York and Warren B. Rudman of New Hampshire, all Republicans, toured the region in January and cited $450 million in direct naval costs for this fiscal year.

The General Accounting Office said costs would be increased because of "sand in the air." Sailors who have served there said machinery needs three times as many spare parts because the blowing sand wears them out faster than in other places. In the warm, shallow waters of the gulf, moreover, pumps must be run faster than normal to cool computers and living spaces.

IRAQUI MISSILES FEARED

Another hidden cost has been operations elsewhere that have been reduced to make ships—or funds—available for gulf operations. "We're coping with this now," said one officer. "But the leadership around here is worried about the future. We're pushing those guys out there pretty hard."

The heat takes a toll and a lack of port calls means little time off during a six-month tour. The Iran-Iraq war adds to the tension. Last May, an Iraqui pilot killed 37 American sailors when he hit the frigate Stark with a French-built Exocet missile. Another such incident during the Presidential and Congressional campaigns could be damaging to Republican candidates.

That possibly came vividly to mind last weekend when an Iraqi bomber fired a cruise missile that flew near the American destroyer Chandler before veering away to explode in the distance. The Pentagon said it would send officers to Baghdad in an effort to teach Iraqi pilots to tell the difference between American warships and other vessels.

[From the New York Times, Feb. 21, 1988]

SOVIET AGREES TO WIDER U.N. TALKS ON IRAN EMBARGO

(By Paul Lewis)

UNITED NATIONS, February 19.—The five permanent members of the United Nations Security Council have taken a significant step toward imposing an arms embargo on Iran as part of their attempt to end the Persian Gulf War, according to diplomats involved in the negotiations.

The Soviet Union has agreed that the five nations should bring the 10 other Security Council members into the informal discussions that the five have been holding on a draft for a mandatory arms embargo against Iran.

The Soviet Union, which has been the most reluctant of the permanent members to move against Iran in this way, made it clear that its agreement on Thursday to widen the discussions did not mean that it accepted the draft for the arms embargo, diplomats said.

But the three permanent Western members of the Council—Britain, France and the United States—who all favor an immediate embargo, regard the Soviet move as a significant step forward. Secretary of State George P. Shultz was described as delighted when told about the Soviet decision, according to American diplomats.

China, the Security Council's fifth permanent member, is expected to go along with any decision agreed by the others, Western diplomats said.

Some Western diplomats said they hoped that as a result of the Soviet decision, the 15-member Council would now be able to make further progress toward an arms embargo and perhaps reach final agreement next month.

They said they believed that the Soviet Union was reluctant to permit any further progress in the embargo talks this month because the United States has the rotating presidency of the Council and could claim the diplomatic credit. Yugoslavia takes over the presidency next month.

The other Council members who will now be brought fully into the embargo debate are West Germany, Italy, Japan, Zambia, Argentina, Algeria, Yugoslavia, Brazil, Nepal and Senegal.

In an unusual display of unity, the Security Council agreed in principle last July to impose an embargo on arms deliveries to Iran and Iraq unless both nations accepted its call for an immediate cease-fire and peace negotiations.

NO CLEAR REPLY FROM IRAN

While Iraq has said it is ready to accept the United Nations plan if Iran does too, Teheran's revolutionary Islamic Government has refused to give a clear answer one way or the other.

The draft embargo plan being discussed provides for a two-way ban on the sale of arms to Iran by all United Nations members, unless the Council decides to shorten it, diplomats say. The draft also provides for regular reviews of the embargo by the Council and requires its members to agree on steps to insure that it is enforced.

In the past the Soviet Union has said that while it is ready to impose an arms embargo on Iran in principle, it favors delaying a decision to permit more time to persuade Teheran to agree to a cease-fire. Moscow has also pressed for the introduction of a United Nations peacekeeping fleet in the Persian Gulf to protect civilian shipping there, and the withdrawal of the United States warships now patrolling the gulf, although it has not made this a condition for agreeing to an Iran embargo.

Western officials said they thought Moscow was reluctantly coming to the view that the Security Council must take sanctions against Iran to safeguard its own credibility after many private attempts at persuading Teheran to make peace have failed.

Nevertheless, imposing sanctions on Iran is a difficult decision for Moscow, Western officials said. The Soviet Union has a long border with Iran and is reluctant to damage relations. It may also fear that Iran's fundamentalist Moslem leaders could stir up trouble among the roughly 60 million Soviet Moslems and disrupt Moscow's efforts to make peace in neighboring Afghanistan, Western diplomats say.

The United States, Britain and France also say they are not getting as much support for an arms embargo against Iran as they would like from some of the Council's rotating members. In particular, they say West Germany, Italy and Japan are reluctant to jeopardize their trade with Iran.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I was going to proceed for about an hour unless there was some understanding here between the leaders that any motions be made at this time at which point I would be delighted to yield the floor.

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

Mr. RUDMAN. I am pleased to yield.

Mr. BYRD. If the Senator wishes to speak, I have no intention of having a vote, and the Senator has the floor. I could not have a vote if I wanted one unless he yielded for it. There is no desire to have a vote just to have a vote.

As long as the Senator wishes to speak, I think that serves each side to have an opportunity to put our case into the record, those who are for the bill and those who are against it, and a quorum call serves no such purpose.

I thank the Senator for offering, however, to yield.

Mr. RUDMAN. I thank the majority leader.

I yield to the distinguished Republican leader.

Mr. SIMPSON. Mr. President, I thank the Senator from New Hampshire for yielding for a moment.

I would add to what the majority leader has said. The gentleman's agreement provides simply that we come to this hour of 10 o'clock and then go into what is described as regular order of the first order, I would suppose, at this time, and I think until our adjournment time of approximately 5 or 5 o'clock this evening the arena is subject to all the motions and activities that have taken place in the days past.

The Chair could move to consideration of the issue, moving the question. Those in opposition could be suggesting the absence of a quorum. Motions and activity would be taking place. That is all I would add to the activity.

There is nothing concerted here, but some will very likely make that motion saying there is the lack of a quorum, so I think everyone should be alert that there would be rollcall votes surely during the day, even though the debate will remain hopefully clearly directed.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a brief comment?

Mr. RUDMAN. I am pleased to yield.

Mr. BYRD. I want to compliment Senators on both sides of the aisle who remained on the floor throughout the night and concentrated their comments on the substance of the legislation before the Senate—those who are opposed; those who are proponents. I was here a good bit of the evening and so was the distinguished assistant leader. He is the acting leader. He is the leader for all intents and purposes

at this point. I say we were here and the Senators who were chosen by him and by me understood that the debate would be on the substance.

As I understand it they have had that kind of good debate.

I personally want to compliment them on both sides of the aisle and on both sides of the question for the service that they performed in directing their comments to the bill.

I thank the Senator for yielding.

Mr. SIMPSON. Mr. President, will the Senator yield an additional 1 minute?

Mr. RUDMAN. I yield.

Mr. SIMPSON. I, too, wish to thank very sincerely those who participated from our side of the aisle and the other side, Senators EVANS, WEICKER, STEVENS, and MURKOWSKI. They stayed within the subject matter as did those who represented the proponents of the legislation. It was very helpful. It was helpful to us all. It gave some of us an opportunity to get a full evening's rest and now we proceed into the activity according with the agreement, and I thank the majority leader for his courtesies an extraordinary willingness to extricate us from what would have been only further delay and further activity and further dazzling things.

Thank you very much.

Mr. RUDMAN. Mr. President, I made the inquiry only because earlier this morning I had been told that there might be a vote here this morning probably, for the sole purpose of getting Senators who are somewhat groggy from the past 2 days more awake by the invigorating walk from the offices to the Chamber.

Since we are not going to have that kind of vote, I would be pleased to proceed.

I was talking to the television critic of the Washington Post yesterday, who called me on another matter, and I asked him if he had been watching C-SPAN II which carries the deliberations of this body and he said he had not. I told him he missed a great deal. I thought the events of the last 48 hours were a curious blend of "Dallas," "Dynasty", "The Last Buccaneer" and the Friday night fights.

But I am glad to see that civility has returned to the Chamber and as far as those matters of procedural due process, I would just make a parliamentary inquiry, Mr. President.

I am curious as to whether or not the questions asked by the junior Senator from Pennsylvania [Mr. SPECTER] addressed to the Chair yesterday afternoon, which I would describe as procedural due process questions, have ever been answered by the Chair?

The PRESIDING OFFICER. The Parliamentarian is working with Senator SPECTER on that matter currently.

Mr. RUDMAN. Then, would it be fair to assume by that answer that at some point those questions will be answered so the body would have the ruling of the Chair.

The PRESIDING OFFICER. I am sure that will be done.

Mr. RUDMAN. I thank the Chair because, being a lawyer and a former attorney general, I am interested in procedural due process. I obviously plan to be here for a few more years and, if such events transpire again, I might want to have my defenses ready so I will be very interested in what the Parliamentary advises.

Mr. President, I want to start out my comments this morning with a quote from Robert Samuelson, an economic and political analyst for the Washington Post.

This is a quote from a piece that he had in the Post not too long ago. It is not all that long.

> The Founding Fathers are growling in their graves. The Senate is now debating campaign finance "reform": a respectable sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, smother elections in bureaucratic rules, and hurt candidates' chances of beating incumbents. It's an odd way to celebrate the Constitution's 200th birthday.
>
> Blame that on Fred Wertheimer of Common Cause. His crusade for reform—campaign spending restrictions and public financing—is built on half-truths.

The reason that that particular quotation is appealing to me is I daresay that no one in this body—I say this with all due humility—is in a better position to talk about campaign reform with some credentials than the junior Senator from New Hampshire. For those who do not know it, I was the only candidate in 1980 to run without any out-of-State PAC money whatsoever. As a matter of fact I believe when I did that in 1980, the only two Members of the U.S. Senate that did not take PAC money were the Senator from Oklahoma [Mr. BOREN] and the Senator from Wisconsin [Mr. PROXMIRE]. There is a little history as to why I cannot take PAC money in New Hampshire.

I was running against a very good man, a Democratic incumbent, Senator John Durkin in 1980. Senator Durkin had been elected in a highly disputed election in 1974—actually two elections. One was hotly contested, then a second election which he won handily. And then finally he ran for reelection in 1980.

What I am about to say is not a criticism of him because he is a friend. It is a criticism of the system. I noticed, sitting as attorney general of New Hampshire in 1974, something that bothered me a great deal. New Hampshire is not known particularly as a big labor State. Yet as I watched campaign contributions in that election, Wyman versus Durkin in 1974, I found an enormous amount of labor PAC money coming into the State of New Hampshire, a very small State in which that kind of PAC contribution can have a real effect.

I do not know the precise number but I believe that in a campaign that probably cost $700,000 or $800,000, maybe as much as 35 or 40 percent came from labor PAC's and another substantial amount of money came from other political action committees. Curiously, a relatively small portion of the funds for Senator Durkin's 1974 campaign came from people who resided in New Hampshire.

This is not unusual, I might say, if you went across the entire country. That bothered me.

As I go back to the basic constitutional provisions creating this Congress, and to the amendment in which Senators become popularly elected, it occurred to me that although we certainly represent a national interest and vote on matters that affect the entire country, the Presiding Officer represents the people of Alabama, the majority leader represents the people of West Virginia, and the Senator from New Hampshire represents the people of that sovereign State. There is something essentially wrong with a system in which the bulk of contributions electing a candidate are coming from political action groups that have little base or interest in the State in which the election is taking place.

My advisers told me back in 1980 that I was probably out of my mind, that it would be impossible to run a campaign without PAC money. But I decided to make that an issue. I decided, although I could raise far less money, that the people in New Hampshire, in a State of that size, could be reached by the media, both paid and free, and convinced that they ought to be concerned about the special interest money, be it labor money, business money, whatever, that did not have a community of interest in that State.

I won that election. And I am convinced that that issue had a great deal to do with it.

Curiously, I would just add as an aside something that is a matter of public record. The present executive director of Common Cause, who I referred to in Mr. Samuelson's quotation, came to New Hampshire about 6 months after my election to address a Common Cause meeting in New Hampshire. During the question-and-answer period that followed, he was asked by a member of Common Cause of New Hampshire about my efforts to resist PAC money. Rather than saying anything nice about that, Mr. Wertheimer proceeded to blast me, which became a front-page story in all of the State papers, for not doing more to bring campaign reform to the U.S. Senate.

I had been here by that time, I think, roughly 5 months when that all

appeared. I did not react very well to that. As a matter of fact, it occurred to me it was a little like court-martialing Sergeant York for not killing enough Germans. But be that as it may, I have had nothing to do with Common Cause as a national organization since that time. I believe any leadership that does a thing like that to a Senator, one that ran without PAC money, in his own State is somewhat irresponsible.

As a matter of fact, I would like my colleagues to know that I discussed this bill or a similar bill at a Common Cause meeting in New Hampshire several months ago, I believe it was last fall.

When the Common Cause membership in New Hampshire understood some of the problems with this bill, they suddenly recognized that their national leadership was selling them a bill of goods that I do not think they necessarily agreed with. To say this is a Common Cause bill is an overstatement. This is a piece of legislation that Common Cause at the national level is pushing, and as we all know, we have spent enough time around here, what the national organizations lobby for down here sometimes has little resemblance to what their membership really would like.

So I am not sure the people in Common Cause really want this kind of legislation adopted because, you see, the real problem that this country faces today in elections, in my view, has little to do with the amount of money that is spent and has a lot to do with where that money comes from.

In the last Congress I was a sponsor, very proud original cosponsor, of the Boren-Goldwater bill. That bill was a bill to curb the power of political action committees. It had strong bipartisan support here in the Senate. It passed in September of 1986 by a vote of 69 to 30. There was an amendment offered to that bill, I might add, which would have eliminated all PAC contributions to political parties. The amendment passed. I would point out that 40 out of 42 Members of the current majority voted against that amendment, which is not surprising considering where PAC contributions go today.

Ironically in the 6 years of Republican control of this body not once do I recall any initiative from the other side's leadership pushing any sort of campaign reform. But now, in the 100th Congress, we no longer have a bipartisan bill. We have a very, very partisan bill in my view. And this bill will not pass. It will not become law. Maybe there will be useful purpose served by the last 3 or 4 days and maybe we will get together and finally pass campaign reform that is truly reform.

I would point out that I offered, along with Senator BRADLEY and Senator Eagleton, a proposal for a bipartisan commission modeled after the Social Security Commission to address the whole issue of campaign reform. That bill is still kicking around here. Unfortunately, it hasn't received any reaction. In my view, we will not receive significant campaign reform until both parties get together and do something in the interests of the country. It is inconceivable to me that the Democratic Party will allow any bill to be passed that will seriously impinge their ability to run their elections. And, it is not any more conceivable for anyone to assume that the Republicans will allow a bill to become law, if they can possibly stop it, if it will impinge on the way they get reelected.

If you want to really talk about campaign reform, I would like to talk about several ideas that are not new. I would certainly hope that the majority leader and the Republican leader might get behind a bill that I have offered which is known to the Rules Committee. If you really want campaign reform, and the first idea of campaign reform is to get more participation in the process and, second, to limit the power of special interests, then I have a solution for you. It is called the 50-30-20 bill. It works very simply. The Rules Committee has heard of this, a lot of people in this body like it, it is not unfair to Democrats, it is not unfair to Republicans, and it is a bill that will move the process.

That bill essentially says that 50 percent of all of your fund can come from individuals, and I raise the personal contribution limit from $1,000 to $1,500 or $2,000 because the $1,000 limit goes back to 1974.

I might point out that the Governor of New Hampshire is limited by State statutes to a contribution of no more than $5,000 whereas a Senate or House candidate can only receive $1,000. It does not make much sense in 1988. At any rate, 50 percent could come from individuals, 30 percent could come from the political parties.

Mr. President, I believe if there is one feeling that we have in this political sysem, it is that the Democratic Party as a party and the Republican Party as a party have lost power, have lost the right to have discipline within their parties, and that is because in my view they have lost control of some of the fundraising.

So I say, allow the parties to contribute up to 30 percent of expenditures to the candidates.

I would add that bill will allow no pass through money, no bundling, a true and honest 30 percent of the money they raise, of the money that a candidate can spend, could be given by his party and no more than 20 percent can come from PAC's. It seems to me, in an election in my State costing $1 million, that $200,000 worth of PAC money, although I do not happen to like it, probably is acceptable. But $400,000 or $500,000 is not.

So that is the 50-30-20 bill, a bill that would be fair to everyone. Somehow, it has not received the support I believe it should. I will give you two or three other ideas if we really want campaign reform. I heard a dialog a few moments ago between the Senator from Alaska and the Senator from North Dakota about the enormous amount of money we are spending on campaigns. Well, that may be true and it may not be true. I want to make a couple of observations.

I spent $700,000 to get elected in New Hampshire in 1980. My colleague on this side of the aisle—I pick him because I know the number, Senator PETE WILSON of California—spent $6 million to get elected to the U.S. Senate from the State of California. You talk about $700,000, nobody gets upset; you talk about $6 million, that is a lot of money.

I will have to make a confession. I spent 70 cents a citizen vote, and he spent 25 cents a citizen, because California is 23 times larger than New Hampshire. So when we simply talk about money, we are talking in a vacuum. We have to relate it to something.

The real reason campaigns have gone out of sight in costs is the cost of television advertising. I see the Senator from Alabama is presiding. The Senator from West Virginia, and the Senator from Oklahoma are on the floor. I do not know what the rates are in their States. I am going to tell you something very interesting.

In the State of New Hampshire, which is dominated by Boston television, a 30-second commercial on prime time during my 1986 campaign was between $7,000 and $9,000, one commercial, 30 seconds. When the playoffs in the American League were in Boston that year, and we thought it would be nice to buy a commercial just on local television, not on the network, on the break, during that game, and the figure came back $12,000 to $15,000—one 30-second commercial.

So let us be honest with each other, and the real reason that the cost of political campaigns have gone out of sight is simply because the cost of advertising has gone out of sight.

I have a solution for that also. I proposed it to the Senator from Oklahoma back last year but I do not really recall what his position was on it. But I know others did not like it at all. Here is my suggestion. If you really want to get the amount of money down in campaigns, I will give you an easy way to do it.

Who owns the television airwaves in this country? The people who have the licenses do not own them. They have licenses to use them. The Ameri-

can people own those airwaves. Let me tell you, those are pretty valuable commodities. I noticed a television station sold the other day for $235 million, one station. And the price is going up, not down.

So here is my proposal. Let us say to the television licensees that they will be required to furnish x amount of time to any legitimate candidate, and we can qualify a legitimate candidate during the 30 days preceding a primary and during the 30 days preceding a general election.

I am sure that the people in the country and the people in the gallery will say, "That is a prefectly reasonably idea. Why don't we do it?"

I am going to tell you why we do not do it. We are not going to do it because the broadcasting industry is very powerful and they do not want it. Why do they not want it? Because it will cost them money from their bottom line.

I am willing to vote for that kind of a bill. I will vote for it tomorrow. I will vote for an amendment like that. As a matter of fact, I would offer such an amendment. But, if we should vote for cloture, under the rules of the Senate, we will be foreclosed from offering that reasonable amendment. No wonder Republicans on this side are unwilling to vote for cloture and have an up-or-down vote when we are precluded from offering amendments which, in fact, are reasonable and rational.

And if you want to talk about special interests, it is in the interest of the American people to force television licensees to furnish free time to legitimate candidates. It is not in the interest of the television licensees. And, who wins? The television licensees. That is what special interest is all about.

You know, I have heard more talk on this floor about campaign reform during the past 4 or 5 days and I have been trying to find the reform. The legislation before us does not eliminate special interest money. It substitutes a form of public financing for some special interest contributions directly to candidates, and it places limitations on what people can spend.

I want to talk about those limitations because I asked my staff and, I believe, Senator MCCONNELL's staff to look into the statistics of what this is all about. I came up with some startling numbers which I want to relate now because I think they are quite interesting.

Every single Senate incumbent who spent within S. 2 limits in 1986 won reelection. Everyone. Every incumbent who spent within what these limits would be won reelection. Ninety percent of the challengers who spent within the limts lost.

Now, let us think about that for a moment. You talk about an incumbent's protection act. I mean, I think the American people ought to be outraged to hear that we are putting together legislation which, if it became law—which it will not, but if it would—essentially grants in perpetuity for all intents and purposes the incumbency of 100 men and women who sit in the chairs on this floor.

Everyone in politics knows incumbency is a very valuable weapon. We are on television every night in our home States. We are on radio. We have total access to the media. We are on this floor making news, occasionally.

Let us look at the challenger. Let us say the challenger was a very able young person with enormous motivation, not much personal money, cares deeply about the country, and wants to make a difference.

In my State of New Hampshire—and this is a figure which I hope people might pay some attention to—in my State of New Hampshire, we found out something very interesting which stunned me when I learned about it because it is a State of only 1 million people, with only two congressional districts. It is 100 miles across and about 160 miles north and south. It is a small State. It costs nearly $300,000 to start getting somewhere in the vicinity of 40-50 percent name recognition. Just name recognition. Never mind what you stand for, just mind that you exist.

I had been attorney general in New Hampshire for 6 years, from 1970 to 1976. Then I left office voluntarily. I ran for the Senate in 1980. Oh, how people forget. My name recognition in 1980 was about 20 percent, and I had been a very active attorney general. It took $350,000 to get my name recognition up to 65 percent and by the time the election came about it still was only 75 to 80 percent. What we do with these limitations, Mr. President, is absolutely saying to most challengers, "you have had it" and to most people in this body "You can stay here as long as you want to."

Two other very interesting statistics. To repeat them, everyone who ran in this body who was an incumbent and within the limits won. Ninety percent of the challengers who ran within the limits lost. Sixty-three percent of the challengers who exceeded the proposed limits won, most of them on the other side of the aisle because they won the majority back this past year. And, 72 percent of the challengers who won exceeded the limits.

I mean, if anybody needs any more proof about the power of the incumbency and the problem with the limits—I do not know what to do. I heard my friend from Oklahoma—and he is my friend; we have done a lot of things together—I heard him speak with passion yesterday about people on this side not wanting any limits whatsoever. Well, I guess technically the Senator from Oklahoma is correct. The problem is, how do you define those limits with fairness? That is what we are having difficulty doing.

I will give you a proposal which I will bet gets 100 votes against. I am going to make a hypothetical here that the incumbency is worth 50 percent. So we will make a deal. We will have an amendment, if the majority leader would waive the cloture rule and let me offer it, and the amendment will say incumbents can spend x, let us say, in the State of New Hampshire $1 million—and the challenger can spend x plus 50 percent. Have a level playing field. How many votes do we have for that in the room here? Zero. I will not even vote for it. Because incumbents would say, "Wait a minute; $1.5 million of advertising. They spend it all on television, strong negative advertising"—which, unfortunately, works—"against $1 million of advertising," which could not be negative because the fellow you are running against did not do anything; he has no record. It would not work, so you cannot do that. That would not pass.

I would agree to some kind of limits if I knew how to do it. I have tried with the Senator from Oklahoma last year to come up and fashion a solution, but I did not find one on limits.

I also find this bill fatally flawed because it does not do anything about political action committees. Now, the Senator from Oklahoma and the Senator from New Hampshire has something in common. We do not take PAC money. I think the Senator from Oklahoma would agree that makes it very, very tough.

I will never forget coming here in January 1981 and having my administrative assistant come in and say, "We have a problem here. We have got all of these letters from all of these PAC's." And the letters all read the same: "Dear Senator Rudman, somehow we overlooked your campaign"—they sure did in 1980—"and we would like to enclose a check for $5,000 toward your next campaign and toward your debt."

At that time, we had a debt, I think I am stating it correctly, of $160,000. And, if memory serves me correct, the checks from the PAC's between election day and a few weeks after I was sworn in amounted to probably more than half of that. I think it was in excess of $100,000. They were all returned because we made a pledge to the people in New Hampshire and I believe if you make promises you ought to keep them. The pledge was that we will not take non-New Hampshire PAC money.

But if we really want to have reform around here, we ought to get the special interests. I call them wolfpacks. Sure, the PAC's can only give x

amount of dollars, but you can take 10 PAC's who are interested in defense or 10 PAC's interested in energy or 10 PAC's interested in agriculture or 10 PAC's interested in trade issues, and put them together and you have $100,000 between the primary and the general election.

That is what is wrong with the system, not how much we spend.

I guarantee you that either we cut the cost of television advertising or the next cycle will cost even more because television advertising is going up, I believe, at double the rate of inflation or maybe more.

So I would say, Mr. President, that I think it is really a mistake to call this a reform bill.

You know, I have heard a lot of accusations on this floor that this bill is designed to end the Republican Party. I really do not believe anybody planned to do that. Maybe it looks that way. I think the majority leader would have no fun at all if we got rid of the Republican Party. Let me simply say that, although I do not think it started out that way, to many of us on this side of the aisle it kind of feels that way because we tend to raise more money in smaller amounts, which may be a surprise to the American people. The Republicans raised more money in smaller amounts and that is because we have been much more efficient at direct mail and direct mail raises small amounts.

You know, I do not have a problem if, in the State of New York, 3 or 4 million people want to give $5 each to a candidate. I think that is good. In the State of New Hampshire, if we could get 10,000, 15,000, 20,000 people to contribute $30 each, that is a lot of money. I do not have a problem with that.

What I do have a problem with is special interest groups bundling that money and concentrating it in small States where it makes a difference. Three or four hundred thousand dollars of PAC money makes very little difference in California, New York, or Michigan. It makes a whale of a difference in Alabama. And it makes even more of a difference in New Hampshire. And that is where reform is needed. This bill does not address that. It does not do a thing about PAC money. Essentially it would eliminate the chance of many middle-income Americans, in my view, to become active in the process.

It creates subsidies to help counteract independent expenditures. I would agree, this is a tough problem, but I am not sure this is the right way to deal with it, or even an effective way. It creates postal subsidies which I totally disagree with.

You know, I talk to a lot of people in my State on all sides of this issue, and I do not find much support for public financing. You know, the attitude of people is, "Look, you get elected and now you want us to help you get reelected with our tax money."

Now, I think that there is a real possibility that we can work this out. And, if nothing else, this 3-day period ought to reinforce the fact that the only bill that is going to pass is a bill that is truly reform and that does not gore the oxen of either party.

I would plead with my friend from Oklahoma, who has been a leader in this, and my friend from Alaska, Senator STEVENS, who has been a leader in this, to take another look at 50-30-20. It is a good piece of legislation. It encourages the participation of the American people in the political process. It limits special interests.

I would be willing to do away with PAC's completely. But I do not think there are the votes to do that on this floor. So why not do it in some reasonable, rational, and small way?

Finally, let me just go through a few numbers here which may already be in the RECORD, but I want to make sure because they are just illustrative.

Curiously, 20 percent of the contributions in 1984 for the Democratic candidates came in amounts of under $200. Roughly a third of the Republican contributions came from people in amounts of under $200. In the last election cycle, Democrats raised about $75 million in 1986 from PAC's; Republicans about $57 million. In the current cycle, 10 of the 11 leading Senate PAC recipients and 13 of the leading 16 PAC recipients in the House are Democrats. The Democratic Party, according to this report, relies very heavily on PAC contributions.

So I think that I understand, that being a political reality, why the people on the other side of the aisle are not willing to accept our proposal, which is to limit PAC contributions or to do away with them completely.

I think the Senator from Oklahoma would be willing to do that because that is what he does himself. But I do not think there is support for that in large amounts on that side of the aisle.

So I would simply sum up, Mr. President, by saying that this legislation is not reform. It does nothing about special interest money at all. It raids the public Treasury to run our reelection campaigns. It is an incumbent's protection act which essentially would establish in perpetuity most of us who want to stay here for as many terms as we would like. It defeats the incentives to challengers who are able and willing to fight hard for a U.S. Senate seat, which is something to aspire to, and makes it more difficult for them. It seriously impairs upon the ability of Republicans to raise money from middle America and it spends Federal tax money against their will.

Those are good reasons to vote against the bill and, of course, we probably will not get to vote on this bill because cloture, in my view, will fall short.

So I hope, Mr. President, that as we move into the rest of the legislative year, that we might have more light than heat on this subject. The nice thing about the Senate that I have found, is that although people get upset about things, and I think this side had a right to be upset the other night, we recognize that the business of the Nation is too important to allow those things to continually be remembered in a vindictive way. So I think we have to get on with this. But I do think that this is a matter that people of good will ought to be able to get together on and do something about.

So, let me conclude, Mr. President, by saying that I stand willing and ready to help anyone who wants to work on this kind of a bill. I would hope the Chamber would take another look at my 50-30-20 bill. I would like us to revisit the idea of forcing broadcasters to grant some time to qualified candidates. And I would hope that the idea of limits would be further explored; but it has to be fair, it must in some way recognize the disparity of registration, the power of the incumbency, and the fact that, today in America, the escalating cost of advertising has absolutely gotten out of hand to the point that that is the real scandal in America. It is not the amount that is being spent on campaigns—that is why I used the California-New Hampshire example; $6 million sounds like a lot, $700,000 does not; but there was a lot more spent per capita in New Hampshire than in California.

The basic problem is the costs have skyrocketed, whether it be for polling, direct mail, or particularly television. That is why it is such a scandalous-appearing sum of money, although in my view, compared to what we spend for other things in this country, it is not so scandalous. After all, we are trying to inform the people on whom they should elect to represent them in critical times. I hope we can move on and have progress. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I thank the Senator from New Hampshire for his very thoughtful speech, and I use that term with due thought. It was a thoughtful speech, and that does not surprise me that we would hear those kinds of words from the Senator from New Hampshire. He has indicated we have worked together on many projects. In fact, we have had many discussions on this very issue.

I would say that I think he comes to this issue with a degree of commitment, sincerity, and intellectual honesty that is not exceeded on either side

of the aisle in this Chamber on this particular issue, and I applaud him for that. I appreciate the spirit with which he has made these comments today because I know that he, too, wants to do something meaningful and in a constructive way to make some changes in the current system, which is simply not operating as it should.

The indication which he has given here on the floor that he, again, is one of those Senators that does not accept political action committee money is an indication of his feeling that he wants to keep politics as close to the grassroots, to the people that he represents, as possible. We share that common commitment.

I say to him that I hope we can resume our discussion. One of the things that has disappointed me, quite frankly, in the current situation is that it has become so polarized. It becomes very difficult, sometimes, to discuss these matters without it becoming polarized. I remember back when Senator Goldwater and I first introduced a campaign reform bill—I know the Senator from New Hampshire recalls this—we had a meeting of the two caucuses on a Tuesday, as we always do.

It was very interesting as Senator Goldwater and I exchanged reports on what happened in each caucus after it was over. I am sure the Republicans in the Republican caucus thought that the Democrats were all praising me for having introduced a bill, for having helped the Democratic Party, because, as I understood it, the Republicans were really giving Senator Goldwater a working over, saying, "How in the world could you have fallen into the trap of introducing a bill that is obviously aimed at helping the Democrats?"

But I had to laugh to myself and say, well, it would certainly have been ironic if each side could have heard the caucus of the other because at the very same moment the Democratic caucus was giving me a working over for having fallen into the Republican trap authoring this bill with Senator Goldwater that was obviously aimed at the demise of the Democratic Party.

Each one of us has a unique experience with the campaign financing laws. There is not any one campaign for the U.S. Senate that is exactly like any other and so, if we look at proposals for change and reform, we measure them against our own personal experiences. We see intents behind proposals that are simply not there.

It is absolutely the truth, when we got together to try to write S. 2, there was no intent to try to slant that bill toward the advantage of one party or the other. That was simply not our intent. Our intent was to deal with a very, very serious problem for this country and it is a serious problem. The system cries out for change. As I told somebody who was questioning me about it this morning, when I signed on to be an author of that bill with Senator Goldwater several years ago, in signing my name to that bill I knew I was not signing my name to a proposal that was going to have full consideration within the next 2 or 3 months.

I knew I was not signing on to a short-term project. I knew that I was signing on for the duration; that I was signing on to a project that was probably a decade-long project, not a short-term project.

I had the same experience when I was in State politics in Oklahoma and would begin to author bills for open meetings on committees and recorded votes on amendments and campaign disclosure and conflict of interest. I was greeted with the same enthusiasm that Senator Goldwater's bill and my bill was greeted with when it was first introduced here: a mixture of scorn, derision, agitation, alarm, but mostly a kind of a knowing smile that such proposals would never go anyplace.

I said then that, ultimately, we were going to win on those proposals that I introduced when I was at the State level. Ultimately we were going to win because the people themselves would come to understand the issues and I said that that system that was going on then was a scandal waiting to happen. Unfortunately, those familiar with the history of my own State and the politics of our State know that scandals did occur and they occurred at about the same time that the Watergate scandal was occurring nationally.

The people of the State fixed their attention on the need to reform the State political system and all of a sudden those proposals that people had smiled at with condescension because they knew they would never go any place were presented on my desk for my signature, as I had moved from the State legislature to the Governor's office during that period of time.

In the course of a very few months these proposals were adopted. There are some issues and some bills and some proposals that can be passed simply by marshaling support of people within the capital building, be it at the State level or at the national level. There are other major proposals for reform which go to the basis of political institutions themselves; changes that affect the sitting members of legislative bodies, and any change in the campaign law affects every single Member of the U.S. Congress, House and Senate.

It has been my experience in reading history about these fundamental changes going back to the time of Theodore Roosevelt and Woodrow Wilson and others who helped bring about basic reforms, and LaFollette and others who served here, who brought about basic reforms, that those reforms did not come until the people themselves became engaged. Because those who are a part of the system find it very difficult to be the architects for change.

That is why we have always heard, and I thought, I wonder how long is it going to be in this debate, during this week when we have had this matter up that I am going to hear it again: "You are right; there is a real problem, but let us wait until after the next election to make the change because I am running this year. I have to go to the political action committees to raise the money. I am facing the need to raise $3 or $4 or $5 or $6 million. I cannot raise it in my home State so I have to go to other places in order to raise that money."

"I agree with you," my colleagues would say, "that something needs to be done. Something needs to be changed. But wait until after the next election because I cannot afford to offend those out-of-State givers, those secretaries or managers of the political action committees who represent lobbying groups here in Washington. I cannot afford to offend them because I have to finance my own campaign because the other side running against me will have millions of dollars to spend and I must have millions of dollars also. Let us wait until after the next election."

So, Mr. President, we have waited and we have waited. When campaigns on the average cost $600,000 to run for the U.S. Senate, people said it is getting too high but let us wait until after the next election.

When the average campaign for the U.S. Senate started suddenly costing $1.5 million, people said, "It is serious. it is bad. We should not put public offices on the auction block to be decided, not on the basis of the qualification of the candidates, but on the basis of who can raise the most money. Something ought to be done about it, but let us wait until after the next election."

And now, Mr. President, it costs $3 million on the average to run a successful campaign for the U.S. Senate. In many States it costs many more millions of dollars than that. We have States where almost $3 million has been spent between two candidates running for the U.S. Senate. Here we are and what is being said again this year? "Oh, there is a problem. But since no one has come up with an absolutely letter perfect solution to the problem, let us wait until after the next election because we do not want to disturb those almost 500 Members of Congress running for reelection this year. There are almost 500 running every 2 years. One-third the Senate and the entire House of Representatives. We do not want to disturb the

contributors. We do not want to rock the boat. Let us wait."

Mr. President, if campaign spending keeps going up at the same rate, and it already is requiring us to raise $10,000, this has been said over and over again on the Senate floor, $10,000 every week, 52 weeks a year for 6 long years, the length of a U.S. Senate term, Senator must raise $10,000 each and every week to raise the $3 million total necessary to finance the average campaign.

The time that ought to be spent dealing with the Nation's problems and the time that ought to be spent back home listening to the people to understand their problems, the time dealing with our constituents, the time thinking about the future and what needs to be done for the next generation, time even with our own families, is spent crisscrossing the country, raising that $10,000 per week.

Last night, even, when we were discussing this bill many Members had to absent themselves to attend various fundraisers that were going on around town. We are all caught up in that and we are all a victim of circumstance and even the groups are victims of circumstance now. One industrial group, one labor group has to form a political action committee and give a contribution to a candidate because the opposing interest group has given money and formed a PAC. So to hold your own you have to do the same thing. It is like the arms race. One side escalates. The other side escalates. Neither one wants to be in this dangerous situation but no one seems to know how to get off this merry-go-round; this money merry-go-round that we are on in political campaigns. No one knows how to get off.

People have even learned to play the game. You get a poll that shows you are going to win. You go to one group, let us say to the banking association, and you say: "We are going to win. Get on board early. You will be remembered."

They get on board, and then you go to the competing interest groups. Maybe it is the savings and loan. You say: "Oh, my, the bank has got on. That fellow is going to win. You better get on board too, or he will tilt toward them." Then the savings and loans get on.

Then they go to the insurance company and they say, "You know, there is a big dispute about whether or not banks should be able to get in the insurance business or savings and loans, too. Those two have given. You better get on board or your competing interest won't be heard."

Round and round it goes, and everybody is victimized by it. The elected officials are victimized by it. They wanted to perform public service. They had an idealistic desire to come here and do their job for the American people, and they have to go out hat in hand and spend their time, effort, and energy raising money and raising it under circumstances that oftentimes have appearance of compromise of one's position even if, in reality, the compromise is not there.

And the people having to give the money are victimized, the interest groups that form the political action committees, whether they are business or labor, whatever their background, they are being victimized because they are being played off against each other.

People get notes from PAC managers to send back and, "Enclosed is my check, yes, I want to support Senator So and So and Congressman So and So." Maybe he is a chairman of a key committee or subcommittee they need to have for their own line of work. They get a reply card to send back, "Yes, enclosed is my $5,000. We want to help," or, "Yes, we want to give $1,000," or, "We want to help." Or, "No, we are not for his reelection." Those are the kinds of choices.

Anybody who does not think that people get the point when that person is already in a key position has to be naive.

So the people giving the money are being victimized. The Senate as an institution is being victimized, and the quality of our work is going downhill.

It makes it more difficult to form a consensus on any issue we deal with, whether they are talking about the budget or education policy or foreign policy.

This is one of the reasons Members are so busy that they hardly even get to know each other and they have to talk to each other through the staff members. It is a rare thing in this institution anymore for two or three or four Senators to sit down together for as much as an hour to really talk about the substance of an issue in an institution that is supposed to be the greatest deliberative body in the world. Part of the reason is the financial pressure necessary to serve is so great that it takes so much time and effort and energy in organizing that we are not even able to sit down and reason together and work out the kind of bipartisan consensus on bringing these two aisles, narrowing the gap in this aisle here so that we can work together as Americans to solve the Nation's problems.

And there are many people on the other side of the aisle who I have been privileged to work with on one issue or another, and I know from working with them that they are good Americans with a sincere desire to serve the country and they are reasonable people, and I am sure they find the same about many people of this side of the aisle, and the shame and tragedy of it is we too seldom sit down person to person, Senator to Senator, to work out an approach to problems facing this country in a way that we could work them out if we ever had the time and the opportunity to sit down together.

But most of all the American people are being victimized by what is going on with the campaign spending today. They have a right. They have a right to elect people here and to send people here to deal with the problems which they face. They have a right to expect from us that we are going to be doing our best to serve them. They have a right to expect that when we have time to go out and see people we will come to see our own constituents and listen to them. They are getting shortchanged because so much time is spent raising the millions of dollars that it takes to run for office that we neglect our other work. They are getting shortchanged because those weekends that we ought to be able to spend back home in Oklahoma or Kansas or Texas or South Dakota or Arizona or Kentucky or wherever it happens to be, too many are having to rush to Los Angeles, or New York, or to Boston, or to Miami, FL, or someplace else where there is a money center where there are a large number of people who have the financial means to make large campaign contributions, and you have to say to that small town business person or that little farmer, who might be able to give you a $5 contribution "I am sorry we don't have time to listen to your problems. We've got to raise $3 million. Don't you know we have to raise $3 million? I haven't gotten my $10,000 this week. I can't raise that $10,000 in Wayne, OK, or Brundage, AL. I've got to go off to Boston. I don't have time to listen to your problems because I have to raise $3 million."

Mr. President, that is wrong. It is wrong. It is eating away at the strength of our political system. Something has to be done about it. And it should not wait until after the next election and one of these days—I do not know when, I do not know if this debate we have been through the last couple of days has yet aroused the American people but one of these days the American people are going to wake up and they are going to start asking questions and they are going to ask themselves has it been good for this country that the cost of running for the U.S. Senate has gone from $600,000 to $3 million in 10 years? Would it be good for this country if that trend continues exactly on the same trendline so it will cost $15 million to run for the U.S. Senate just 10 years from now, as I have said about the time that the pages who serve here now might be eligible to run for the Senate should young people who want to perform public service have to think about not what they want for

their country but how could I raise $15 million to serve.

Would that be good for our country? Is it good for our country that under the present system almost 200 Membrs elected to Congress received over half of their campaign contributions not from the people back home but from special interest groups controlled mainly here in Washington, DC, mainly run by lobbyists who hand out the money on the basis of who has influence and who is in a position to help them. Is that good? Is that good for this country? How can we say that? How can we say that it is having a good impact on grassroots democracy?

When you analyze where that money is going, 80 percent of it is going to incumbents.

I agree certainly with what the Senator from New Hampshire was saying a while ago. While I do not agree with his analysis of this bill I agree with what he said about the fact that we have too much of an incumbent's protection plan under the current system. Not only do we have the franking privileges and newsletter privileges and a lot of other privileges, which I have supported efforts to curtail, so that we have a fairer balance, but we also have the fact that the political action committees because they know we are here they have to deal with us, they are giving 80 percent, more than 80 percent, of all their campaign contributions: $46 million went to Senators last year. Twice that amount went to Members of the House of Representatives. It goes to incumbents, 80 percent of it. Why? Because if they misjudge and that incumbent loses they can always contribute to the new winner after the election, after they know they are going to be here sitting on a committee that they need access to.

Is that good for the country, Mr. President? Is it good for the country that we are discouraging new people with new ideas from becoming challengers in political races because they know they are going to have to face huge amounts of money from other parts of the country if they do that?

It is not good for the country, Mr. President.

That is why we have introduced S. 2. That is why as part of the proposal of S. 2 we have put overall spending limits in place in the bill.

I ask unanimous consent to have printed in the RECORD at this point what the State spending limits would be per candidate under the provisions of S. 2 if it were adopted into law.

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

STATE SPENDING AND PAC LIMITS UNDER S. 2

[In dollars]

State	General	Primary	Cycle	Threshold	PAC limit
Alabama	1,271,200	851,704	[1]2,122,904	290,400	255,511
Alaska	950,000	636,500	1,586,500	150,000	190,950
Arizona	1,093,600	732,712	1,826,312	231,200	219,813
Arkansas	950,000	636,500	[1]1,586,500	171,300	190,950
California	5,481,250	2,750,000	8,231,250	650,000	825,000
Colorado	1,110,100	743,767	1,853,867	236,700	223,130
Connecticut	1,125,400	754,018	1,879,418	241,800	226,205
Delaware	950,000	636,500	1,586,500	150,000	190,950
Florida	2,807,500	1,881,025	[1]4,688,525	650,000	564,307
Georgia	1,679,500	1,125,265	[1]2,804,765	431,800	337,579
Hawaii	950,000	636,500	1,586,500	150,000	190,950
Idaho	950,000	636,500	1,586,500	150,000	190,950
Illinois	2,709,000	1,815,030	4,524,030	650,000	544,509
Indiana	1,597,900	1,070,593	2,668,493	399,300	321,177
Iowa	1,033,300	692,311	1,725,611	211,100	207,693
Kansas	950,000	636,500	1,586,500	178,500	190,950
Kentucky	1,210,900	811,303	2,022,263	270,300	243,390
Louisiana	1,337,800	896,326	2,234,126	312,600	268,897
Maine	950,000	636,500	1,586,500	150,000	190,950
Maryland	1,388,500	930,295	2,318,795	329,500	279,088
Massachusetts	1,714,500	1,148,715	2,863,215	445,800	344,614
Michigan	2,251,250	1,508,337	3,759,587	650,000	452,501
Minnesota	1,316,200	881,854	2,198,054	305,400	264,556
Mississippi	950,000	636,500	[1]1,586,500	182,400	190,950
Missouri	1,510,600	1,012,102	2,522,702	370,200	303,630
Montana	950,000	636,500	1,586,500	150,000	190,950
Nebraska	950,000	636,500	1,586,500	150,000	190,950
Nevada	950,000	636,500	1,586,500	150,000	190,950
New Hamsphire	950,000	636,500	1,586,500	150,000	190,950
New Jersey	2,880,000	1,929,600	4,809,600	570,000	578,880
New Mexico	950,000	636,500	1,586,500	150,000	190,950
New York	3,953,500	2,648,845	6,602,345	650,000	794,653
North Carolina	1,766,500	1,183,555	[1]2,950,055	466,600	355,066
North Dakota	950,000	636,500	1,586,500	150,000	190,950
Ohio	2,567,750	1,720,392	4,288,142	650,000	516,117
Oklahoma	1,113,100	745,777	[1]1,858,877	237,700	223,733
Oregon	992,800	665,176	1,657,976	197,600	199,552
Pennsylvania	2,844,000	1,905,480	4,749,480	650,000	571,644
Rhode Island	950,000	636,500	1,586,500	150,000	190,950
South Carolina	1,127,500	755,425	[1]1,882,925	242,500	226,627
South Dakota	950,000	636,500	[1]1,586,500	150,000	190,950
Tennessee	1,459,300	977,731	2,437,031	353,100	293,319
Texas	3,493,000	2,340,310	[1]5,833,310	650,000	702,093
Utah	950,000	636,500	1,586,500	150,000	190,950
Vermont	950,000	636,500	1,586,500	150,000	190,950
Virginia	1,665,500	1,115,885	2,781,385	426,200	334,765
Washington	1,368,700	917,029	2,285,729	322,900	275,108
West Virginia	950,000	636,500	1,586,500	150,000	190,950
Wisconsin	1,447,300	969,691	2,416,991	349,100	290,907
Wyoming	950,000	636,500	1,586,500	150,000	190,950

[1] States with primary runoffs—allowed a higher spending limit in the primary equal to 20 percent of the General Election limit.

Mr. BOREN. Mr. President, let me clarify where we are. We wish we were in a position to do exactly what the Senator from New Hampshire talked about and that is continue to have real negotiation between the two sides to see if we could work out a compromise on this bill. I would like to do that. I do not want to see us miss this opportunity to do something meaningful for campaign reform.

Mr. President, we have seen a willingness on the other side of this issue, and I do not use the term "other side of the aisle" because I do not think of this as a Republican and Democratic issue.

There are Senators like Senator KASSEBAUM, Senator STAFFORD, and Senator CHAFEE, who have been supporting this bill. There are other Senators on that side of the aisle like Senator RUDMAN, who just spoke, who have indicated time and time again a real willingness to sit down and negotiate with us on meaningful campaign reform and be a part of it and bring very creative ideas into the process.

There are other Senators. I see my good friend from Arizona here, who holds the seat now occupied by my dear friend, Senator Barry Goldwater, for whom I have such immense regard. He has been an inspiration to me as a person with his political courage.

Likewise, I have great respect for the current occupant of that seat from Arizona, and I know from talking with him that he has sincere concerns about what is happening to the present system. I know he does not support continuing the status quo. He may disagree with some of the points in S. 2, but I know basically he does not want to keep the status quo. He wants something to happen. He wants some changes, some reforms to be made.

I can name many others. Senator STEVENS has had his own proposals. He has had his own concerns. He tried to change things.

Senator EVANS, with whom I served as a Governor, has had suggestions in this area for a long time. It was partly out of frustration with what has happened to this institution that he has decided to retire from the U.S. Senate. I have to say that even if he does sit on the other side of the aisle, I think that is a loss to this institution that he had decided to retire.

A great Senator from Maryland, Senator Mathias, who previously served on that side of the aisle, was a loss to the Senate when he decided to retire, and he made it very clear that he was retiring principally because he decided he did not want to waste 2 years of his life to raising $4 million to run his reelection campaign instead of using that 2 years to deal with the issues that he thought he was elected to deal with.

I saw him just this week. He is now retired from the Senate. He said, "Keep your spirits up. Do not ever give up on this issue, because if you give up on this issue you really are giving up on the future of the U.S. Senate to serve the people."

So, Mr. President, I would like to be able to continue these negotiations and put everything on the table, and we offered to put everything on the table, soft money disclosure, everything, when the other side said we are worried about the South, for example, that the Republican Party might be locked into the minority status permanently in the South if these spending limits are as low as they are in S. 2. We said that is not our intent and if that is the effect of this bill we are ready to change this bill. Come to us with a proposal. Come to us and tell us what do you want the limits to be. How much do you think they need to be increased?

As Senator RUDMAN points out, there is an advantage to incumbency. There is an advantage to even the fringe part that has a registration advantage. We will recognize that. Work with us on the machanics and the details on how to do it. As Senator RUDMAN said, we

need to work on it. We are willing to work on it.

But, Mr. President, unfortunately, we finally heard from the other side. There is one thing we just will not even talk about, and that is putting overall limits on campaign spending or overall constraints or overall ceiling on how fast campaign spending can go up. We are just against putting overall restraints on total campaign spending, and we will not even talk about it. We will not even talk about changing the formula by State to make sure it is fair to the Republican Party or the Democratic Party in the particular State. We just will not even talk about it at all.

So, Mr. President, that is the issue and that is where we have come around in the negotiation.

If the other side would say we are willing to talk, we want to make sure that formulas are written in a way to be fair to Republicans, I think this side would bend over backward to change the formula. If anything, we would probably go so far as to put ourselves at a perceived disadvantage in order to demonstrate our fairness on that point.

Mr. President, when they say we will not talk about limiting campaign spending that is like saying you can go swimming, but do not go near the water. You can have campaign reform but cannot do anything about all this money coming into the system.

Mr. President, I just fail to see how it is good, if anybody can explain to me it is good. The cost of many campaigns have gone up 500 percent in the last 10 years. If anybody can say to me the people themselves at the grassroots had a greater say in the process, if anyone can say it, increased confidence in the American politics, that the campaign spending has gone up that much, if anyone can point out to me it is good for me to say to the graduating students this year when I give my commencement addresses, you should get involved in public service; you have to raise $15 million to run for the U.S. Senate. If anyone can tell me how that is really good for the country, and that is the issue, that is the only issue, as I said yesterday, the issue before the country and it is a little disappointing to me that the media to some degree focuses on the sideshow and not on the main event, focusing on what has gone on in the trapeze way at the end of the big top, but no one paid any attention to what is going on in the center stage or main event. It is not about the rules of the Senate, how the Sergeant at Arms should compel the attendance of absent Senators. It is not about costs being brought out. It is not about how many hours of sleep we have lost. It is not about the colorful happenings as I was asked again and again, "Well, did anything amusing happen during the night, any tall tales told, any kind of experience you can pass on?"

Mr. President, that is not what this is about. That is not what it is about. Those are all tangential events. It is about one thing now because we have shown we can probably reach agreements on many of the recommended issues to campaign reform doing something to define average advertising rates that are very, very important to the Senator from New Hampshire, who talked about that. We can work on that, and I am convinced we can come to a solution, so we get a balance back into what PAC's and individuals give.

We should have aggregate PAC limits so we can get a balance back between what PAC's give and individuals give, leaving parties room for growth, and strengthening. And the Senator from New Hampshire is right. That is something that needs to be done. We can work on those things: Millionaire's loopholes, so the millionaires spend unlimited amounts of their own money to buy alliance, something ought to be done. We can work on that. Independent expenditures by committees that run negative ads and do not really identify who is running the ad, what their cause is, we could do something about that.

Mr. President, it all boils down to this. The negotiations have fallen apart because there has not been a willingness to put on the table, to even put on the table the question of overall limits on the amounts of money that can be pumped into campaigns. Surely, there is some logical point at which everyone could agree it is unhealthy. I look at spending and I see $30 million spent in races. I think to myself immediately, what is wrong? Should not we be competing on ideas, on qualifications? Should not our people have campaigns that cost within bounds so they can stay mainly in their home States and be able to raise enough money to run those campaigns so they can talk to the people that elected them about their problems so they do not have to go to other places and deprive them of time from their constituents and time away from work.

So, Mr. President, that is the issue. That is what we must deal with. All I can say, Mr. President, is I don't know how the vote will come out at 10 o'clock tomorrow morning. I keep hoping that there will be some, frankly, six people who have not voted for cloture before who will decide to vote for cloture this time. Maybe not because they think S. 2 is perfect but because they would like to get on with trying to fashion a solution, because if we get a cloture, and we vote on this package, it will then be subject to amendment.

Those who are opposed to it in the form in which it now is will have every opportunity to offer any amendment that they want to offer. This Senator as manager of this bill promises to allow them to have every opportunity to consider legitimate, relevant amendments on the subject of campaign reform, any and all of them that they wish to offer to make changes or improvements in this bill.

So, Mr. President, that is the issue. Is it good for America to allow an unlimited amount of money to be spent on campaigns, unlimited? Would it be good for America to put no limits on the rate at which campaign spending is going up? Would it be good for America if within the next 10 years campaign spending went up another 500 percent? Would that be good for America? Would that be good for our people? Would it be good for our political system? That is the answer.

The American people in poll after poll by over 90 percent says that is not good for America, that it is a serious problem, and something should be done. Fifty-two Members of this Senate have signed onto this bill as a vehicle, not as the perfect solution, not as the last word, not as something that should not be subject to amendment, but as a vehicle for reform. Fifty-five Members of this Senate have gone on record in the past of saying give us a chance to vote on it. Ninety percent of the American people have said it is a serious problem, and we ought to do something about it.

Mr. President, we should. I hope we will have a chance. I hope we will take up the offer to continue to work in good faith, but I hope those who are opposing this bill now will give us a chance to go forward and work on this. Vote for cloture. Give us the chance. It is not over when cloture is invoked. It is the beginning. It is the beginning of working together.

As I said, we will narrow this aisle hopefully. I would not care if the desks were all pushed up, right up against each other to show we should work on this problem together as Americans because it is an American problem.

So no matter what parliamentary maneuvers have been made, and how cranky all of us may get from loss of sleep or how anybody felt about what has gone on in the course of this debate, I hope it can be put aside in the last 24 hours for us to find a way, Mr. President, to find a solution and find the solution that will put some restraint on this runaway growth of campaign spending. We are concerned about the arms race. We ought to be concerned about the arms race. We ought to be. It threatens our security. It threatens our physical security.

Mr. President, let me tell you that the political money race threatens our political security in this country. It threatens our political security. And

the political security is stability for our children. We ought to devote ourselves to doing something about it. And we ought not wait until after the next election. One of these days we are going to be called into account.

I saw it happen in my State about the reforms that we were slow in making, and finally I saw those reforms speedily adopted. It was speedily adopted when the people said where were you, what were you elected officials doing, why have you not taken care of this problem? Finally they were embarrassed and jumping on a bandwagon to do something about it.

I hope we will all go on the record of saying we want to do something about it now. We will have that chance at 10 o'clock on Friday morning by voting yes, just say yes, to paraphrase what the First Lady has said, but in the reverse. Just say yes to giving campaign reform a chance. Just say yes to talking about putting some limits and restraints on overall campaign spending. Under our rules there are so many ways that, if the form of the bill does not finally please people when it is over, they will be preventing us from voting on the final bill. But just say yes to commencing on this. Just say yes to over 90 percent of the American people who view this as a serious problem. Just say yes to getting on with the work of stopping the campaign cash raising that threatens our political security.

Mr. President, to close I see my colleague here. I appreciate his patience in being a captive audience at this point to these remarks.

I say again he is the kind of Senator that we had the opportunity to work without any constraints. I think we can work together on something that would be significant. I hope we will have that chance.

I would like to insert into the RECORD some remarks that I made about a proposal which came from the other side which would limit soft money, not just disclose it but limit it. Negotiators from the other side have advocated placing actual limits on what constitutes certain soft money expenditures. I think we all realize soft money can be abused and that there needs to be more disclosure. This proposal would suggest that their definition of soft money is really illegally contributed hard money. That is really not the case.

Let us consider an example. Let us suppose there is an ideological group which is running a national direct mail campaign highlighting all Senators who support aid to the Nicaraguan Contras. As I have supported such legislation, I thought that might be a good example to use. Let us assume that this group is spending $12 million nationally to send newsletters to voter lists and in certain congressional districts. Let us assume that this newsletter is a 16-page color tabloid, the kind of mailing which identifies key Senators and Congressmen who have supported Contra aid, pictures them with the President, has quotes from national leaders who applaud the statesmanship of these several Members of Congress in a very favorable light. Under current law this is considered a free expression of political opinion basically saluting Members of Congress for a particular view on an issue that they held or on votes they have made.

It may be just as easily that expression could have been made in a tabloid commending those who were against Contra aid. We could use the example either way. Different groups would want to do this. The question becomes if we are to limit this kind of activity which would be limited under the proposal of the four negotiators from the other side, the Senator from Kentucky suggested this when he proposed limiting soft money expenditures, how do we do it? Who decides if this is a political endorsement of an individual candidate or a free expression of opinion?

Even if it is to be disclosed, how is the benefit to be allocated on behalf of each candidate? They send this out nationally. Some people are running for election that are mentioned, some are not; some are in closely contested races, some are not. Does the pro-Contra aid group disclose their presumed subjective value of such an endorsement? Does the FEC decide this Member of Congress got this much financial benefit from this tabloid, which is on the subject of Contra aid either for or against it? How do you divide it? How much of the financial value of that went to Senator MCCAIN, how much went to Senator BOREN, and how much went to Congressman Jones or Smith? You have to figure that out.

Mr. President, I am disturbed to hear that some in the group of eight felt that the Buckley case was properly decided because it protected free speech. They were saying you ought to be able to spend money in any amount on your campaign because that is free speech. And then to hear some of the same Senators suggest that we should put actual dollar limits on free speech by curtailing what any group of persons could say about a subject because it might have an indirect effect on political campaigns. There is testimony from the Rules and Administration Committee last spring which told us even the experts who track soft money and review it and analyze its effects admit that you cannot limit something like that because it has first amendment implications, nor can we limit an area in which we do not know actually what is being spent.

I think proper disclosure of political money being used to influence elections will certainly help us deal with that. But I think that we have to consider that it would be very, very difficult to get in the business of actually limiting what is called soft money expressions. Even if you had groups that set up, for example, phone banks to call over a State saying, "Vote Republican," or "Vote Democrat" on election day, you have hundreds of candidates, you have the candidates in any State. We have 77 counties, we have candidates for sheriff in all of those counties. We have 150 people running for the State legislature. We have Senators, we have six Congressmen, we have a Governor race, Lieutenant Governor, secretary of state, attorney general, and all these people are running.

When you have a phone bank calling people saying vote Republican or vote Democratic, how do you allocate that down to sheriff "Z" in one of the 77 counties, saying that was equivalent to $47.50 worth of value to him? It is pretty difficult to do. It gets to be even more difficult when it is a group just talking about an issue as under my example like Contra aid. We salute everybody who is for it. Here is the list of it. Here it is all listed in our little newsletters or tabloid. How do you translate that into some financial value that has been received for a campaign that is maybe a year and a half off from somebody that is mentioned in that tabloid.

Do you discount it by the figures in a district? Maybe one would be praised for being for Contra aid in one district where 80 percent of the people are for it. Maybe one would be praised for being for Contra aid in a district where 25 percent of the people are for it. Do you give the same values? Is it the same political benefit? Obviously, not.

So there are real problems here. I simply wanted to put that into the RECORD because this has been a matter of discussion, and I think again in light of the fact that we have more things to talk about in the future in this area, that I thought I should raise that point as a matter of discussion now.

Again, I thank the Chair. I thank my colleague and I relinquish the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to express my appreciation for the very articulate and indeed persuasive argument that my friend and colleague from Oklahoma, Senator BOREN, has just made on behalf of S. 2. I would like also to state that, if there is a person who can forge a bipartisan agreement on this very divisive issue in this body, it is indeed my colleague from Oklahoma. As I have had the opportunity of working with him on many other very difficult

issues, I certainly would look forward to sitting down with him on this one. If he would also identify for me that district where 80 percent of the people are in favor of Contra aid, I would like to know that because maybe I would like to move there.

But I do appreciate his willingness to sit down with anyone who is interested, and indeed committed to solving this very difficult problem. And those of us who are in opposition to S. 2 certainly might, as we have time after time, indicate that we believe there must be repairs made to the system. We indeed spend too much money, and indeed some forms of campaign financing have distorted and perverted the process.

I would like to follow up on exactly what one of the major concerns that we have is, an issue that my colleague from Oklahoma just talked about, the so-called soft money. He discussed a hypothetical case where a tabloid might be sent out which named various Senators or Representatives who were in favor or opposed to, in the example he gave, Contra aid.

I think there are a couple of different examples that I find outrageous and that the American people find are as distorting to the process as any other aspect of campaign financing. I would like to mention two.

The reports are that $10 million was spent in behalf of the Republican nominee in the primary process in 1984.

None of that money was ever reported. Now, we think that is wrong. We think $10 million worth of expenditures on behalf of any Presidential candidate ought to be reported.

Let me also add to that another story that I think was a perversion of the process. There was in a Midwestern State, a small State, a senatorial contest that took place in the 1986 elections, and there were hundreds of thousands of phone calls made into this small State, and the call went as follows:

Who are you going to vote for United States Senator?

I'm voting for So and So.

Oh, yeah, he is a nice guy, but do you know he voted against Social Security five times?

Oh, he did?

Yes, he did.

Do you know that none of those calls were ever reported as contributions to that Senator's opponent in a small State, a very close race? Many view his defeat to be directly attributable to that unaccounted-for contribution.

Mr. President, I want to make it clear I am not denying the right of any organization to involve themselves in any race anywhere in the country. But I do believe that involvement must be reported, just as any campaign contribution is reported, just as any political action committee contribution is reported, or anything else. But this S. 2 has a glaring hole in it that is about a mile wide and will get a lot wider if we place limits on the legitimate funding. That hole is failing to address soft-money contributions. This is going to lead to more and more and more of these contributions.

We are already seeing this in the Presidential campaigns. We are already seeing ludicrous examples where the Presidential candidates met or were about to exceed the amount of money they could spend in the New Hampshire primary. They would go to Massachusetts to rent a car. They would contract in Maine for brochures to be made. They would contract with Boston television stations, et cetera, et cetera, so that they could avoid the arbitrary, or at least in my view unenforceable, limits on the amounts they could expend in that State. Soft money is a major, major issue.

And, as optimistic as my friend from Oklahoma is—and he is a wonderfully optimistic individual by nature which is one of the reasons why he is so extremely popular on both sides of the aisle—as optimistic as he might be about the invocation of cloture tomorrow at 10 o'clock, I think the prospects of that are extremely dim.

I would also like to point out another aspect of this debate that I think will ensure that at least on Friday we will not proceed with this bill in the invocation of cloture. Of course, that is that the degree to which the atmosphere around here has been poisoned by sending our marshals in the middle of the night to arrest Members of this body.

You know, I served, Mr. President, on the other side of the Congress for 4 years. One of the aspects of this particular body that I enjoy more than anything else is the atmosphere of comity and the atmosphere of congeniality that has characterized open and honest disagreement between colleagues.

None of us appreciate the spectacle of one of our colleagues being dragged into this Chamber in an arcane and almost unprecedented fashion. I would suggest any hope for agreement in the short term on this issue has pretty well been done away with.

I would also suggest that the American people might feel that, as important an issue as this is—and it is, indeed, a terribly important issue—there are other imporant issues which this body needs to address, including the burgeoning budget deficit by which we are mortgaging our children's futures.

I admit, when we discuss S. 2, there is great appeal to this idea. I am bothered by the time I have had to use and any other Member of this body has had to use in order to raise sufficient campaign funding.

My colleague from New Hampshire pointed out very well the major reason why we have to spend so much money is the cost of the media. He mentioned the price of a television commercial during his latest race. I might add that in mine, in Phoenix, AZ, it was $3,500 for a 30-second commercial prime time and that requires an enormous amount of contributions. I am indeed bothered by the expense of elections as is every Member of this body.

Recently, Mr. President, we have had the entry of an organization into this debate which has been rather interesting to me personally, because they have chosen to target me for reasons which are not entirely clear to me. But, recently, full-page ads were again taken out throughout my State with a picture of a rather scholarly looking gentleman who is identified as Archibald Cox, chairman of Common Cause. Archibald states in block letters: "Stop blocking campaign finance reform, Common Cause, 2030 M Street Northwest, Washington, DC."

Mr. Cox, in his personal letter to me by way of the media, tells me that the way our congressional campaigns are financed is a national scandal and the Washington Post has written—the Washington Post has a lot of influence in Arizona—that our congressional campaign financing system is fundamentally corrupt.

Then he goes on to review my record. He then states how important it is that these scandals be brought to an abrupt halt and all that could be achieved if I would stop making the filibuster.

Mr. Cox, as in previous advertisements that were taken out in Arizona, first of all shows a degree of unfairness. And I would ask that Archibald and his friends might show a little more fairness and give the visual and audio media some of their money. We are very, very pleased that they have spent so much money in the State of Arizona. I hope that they will take out these full-page advertisements on a daily basis, because there has been ups and downs in our copper industry, and we always appreciate a lot more money coming in from Washington, DC.

I would ask Archibald and his friends if they could perhaps spend a little money on radio because some of our radio stations could use those funds and also for television, as well.

Archibald perhaps then could get a better feel for how much it costs for us to run campaigns, since so much of our campaign money is devoted to television advertising.

But what Archibald and his friends do not mention in any of their advertisements—I am sure it was a mere oversight—they do not mention the issue of campaign financing with taxpayers' dollars.

You know, I travel all around my State as frequently as I can. I go literally every weekend to the State. And now, with this very fine schedule that we have of 3 or 4 weeks on and 1 week off, I have the opportunity to spend a great deal of time with my constituents. And, you know, I have never, ever met a single constituent who has said to me: "Senator MCCAIN, please spend my tax dollars to finance the campaign of someone I have never met or never heard of." I have never heard a single constituent of mine say that. Maybe I am not in touch. I willfully admit I just go to Rotary Clubs. I have town hall meetings. I visit with chambers. I was down serving Christmas dinner for the homeless on Christmas Day. And, perhaps I do not associate with the same people that Archibald and Common Cause do here at 2030 M Street, NW., Washington, DC.

But I would suggest that Archibald and his friends leave Washington, DC, and perhaps go out into the countryside and explain fully what S. 2 is all about—taxpayers' money for congressional campaigns. And perhaps if Archibald and his friends could get the kind of support for taxpayers' dollars being spent on campaigns, then I certainly would be more understanding of such a thing.

I also wonder whether given the fact that we are running the largest deficit in our history—the spending hemorrhaging continues in a dramatic fashion—whether the American people want to see more of their taxpayers' dollars spent running up deficits. Some estimates are that it could mean only as little as $30 million a year. Perhaps that is an accurate estimate. I have never seen an estimate of any program passed by this body, no matter what kind, including defense, including entitlements, that did not dramatically exceed its original estimates. But let us suppose it is only $30 million. That may not be much money to Archibald, but it certainly is a great deal of money and an enormous expenditure to the working men and women in the State I represent.

Now, we fully understand the response to it. Well, it is not possible to enact campaign spending limits unless there is a provision for public financing. And, indeed, that is the result of Buckley versus Valeo. Does that mean it is incumbent upon this body to approve a program of expenditures of taxpayers' dollars in which, in the view of many of us, it is a very dangerous precedent in order to cure a perceived illness? I do not think so.

Let me also mention that there is an example for this, and it is in the story of the Presidential campaigns. The expenditure of taxpayers' dollars in Presidential campaigns has far exceeded original estimates, without a doubt.

I think it would also be reasonable to conclude that perhaps some people may be entering the Presidential campaigns for their parties' nomination who really do not have much of an opportunity of gaining that nomination, but they have enormous incentive to do so because of matching taxpayer funds. And when we look at the millions of dollars that have been expended and will be expended on behalf of the candidacies of Presidential candidates who have no chance of winning, I think it is just another reason to question this whole issue of public financing.

Let me return for a minute to Archibald and his friends, because I know he is free to take out advertisements, and we understand all the aspects of what can be printed in the paper and what cannot. I would like to refer to a previous full-page ad that was taken out by Common Cause in the newspapers in Arizona. It had a very interesting statement in it. It said: "Former Arizona Senator Barry Goldwater is a supporter of S. 2."

Let me repeat that. "Former Arizona Senator Barry Goldwater is a supporter of S. 2."

Now, I know Barry Goldwater pretty well. He is a founder of our party not only in our State but in our country. Barry Goldwater was elected to the U.S. Senate in 1952 when my State had a 5-to-1 Democrat to Republican registration. I have read "Conscience of A Conservative."

You know, it puzzled me to read that because the one thing that has characterized the long history of service of Barry Goldwater to his country has been his reluctance, in fact, his outright opposition, of using taxpayers' dollars for almost any program unless it was absolutely necessary to do so.

I called Barry Goldwater and asked him about this. Barry Goldwater, of course, was astonished. But Barry Goldwater wrote a letter to LARRY PRESSLER, who had also contacted him. I would like to read this for the RECORD, at least part of it. He said:

> This letter will explain my position. I was happy to cosponsor Senator Boren's legislation but when he introduced Federal support at any level or any amount, I just could not go along with it. One of the surest ways that I know of to raise havoc with our election system, Federal or local, would be to have the Federal Government finance part or all of our campaigns.

I think that is pretty clear. I hope that in the future Archibald and his friends would not take the liberty of using Senator Barry Goldwater's name in such, I think, a really unhelpful fashion.

But I do urge Archibald and his friends to continue purchasing advertisements in Arizona. We do need the money. We are very appreciative that they would take out full-page ads. But, please recognize my admonition to give some fairness.

Now, Common Cause is a fair organization. Please be fair and give money to both the radio and television people so that they can share in your largesse.

Let us take a look at the reality of this situation. Why are all these Republicans against good government and campaign integrity and opposed to cleaning up the scandal, and so forth? They are not. They are against a proposal that would vest added power to incumbents. That hurts Republicans because we are in the minority at this time. Our distinguished acting leader, Senator SIMPSON of Wyoming, described it very well a few days ago. This is not an argument over finance reform. This is an argument over who will control the majority of this body for the next 40 years.

If S. 2 is passed in its present form, there is no doubt who will maintain a majority, and it will be the Democratic Party, unless we address such issues as the soft money, independent expenditures, and other aspects of this bill which give an enormous and, in my view, unconscionable advantage to the Democratic Party.

It hurts all Americans if we do not level the playing field between candidates and between parties. It is bad policy and bad government no matter who is in control. And incumbents, I might add, do not need more security. Let us look at some of the facts about the limits that are proposed in S. 2.

Incumbents have significant financial and political advantages arising from their media exposure, from their use of the office and franking privileges, et cetera. It has often been said that, if there is something that the Congress of the United States has not voted for themselves for free it is because they have not thought of it yet.

We look at the newsletters, the trips home, the offices, the mailings, the postcards announcing town meetings—all of these enormous advantages are incredible. I do not know anyone who has ever calculated and translated all of these advantages that an incumbent has into actual dollars, but I would suggest, if we should do that, that the answer would be in the millions of dollars.

Now, how can a challenger get on a level playing field with an incumbent if he is not allowed to spend more money? At the same time, how can we cap campaign spending like S. 2 does and leave all of these freebies for the incumbent. It simply does not make sense. Some people have called S. 2 the Incumbents' Protection Act of 1988.

I do not make that statement. What I would suggest though is this business of giving challengers and incumbents a level playing field involves a lot more than just spending. Part of it, I would suggest to my colleagues, is this aspect of all of the advantages an incumbent has, not only by virtue of his office

but those advantages in the way of free mail and free phone calls, free news letters, et cetera, et cetera, which are bound to give a hard working incumbent an enormous advantage. So if you put an artificial cap on what a challenger can raise, make that cap the same as the incumbent's, I do not see how we are creating a level playing field.

Let us look at S. 2 limits as applied to the 1986 election cycle, our most recent election period.

If you were a challenger in the U.S. Senate in the 1986 election and you spent above the S. 2 limit, you probably won. Five of seven winning challengers in the 1986 elections for the U.S. Senate won those races.

If you are a challenger who spent less than the S. 2 limit, you probably lost; 18 out of 20 challengers whose expenditures fell below those limits lost those races.

What does that say on the effect of these limits on incumbents' survival? I think it is obvious. It ensures them.

Now, I would like to address another false message that the proponents of S. 2 are raising—that the Senate is "up for sale." That somehow those that will raise more money will win. That is not the case.

Ten of our colleagues who are here today as a result of the 1986 election were outspent and won. Dollars are indeed important. There obviously is a minimum level of expenditure, that would vary from State to State needed in order for a challenger to get his message out. But I would suggest to you that, indeed, if dollars were the answer, this body would have the Republican Party in the majority as opposed to the Democratic Party.

Time spent. Yes, it is inconvenient. It is terribly inconvenient. Not only inconvenient, but it is uncomfortable to have to ask people for money. The one thing I dislike about political campaigning, in my view, is having to request money from people.

But there are a lot of things that are inconvenient in campaigns. Eating barbeque seven times a day is indeed inconvenient. I have had that experience on several occasions.

Having to travel from one end of the fifth largest State in America to the other in 1 day is indeed inconvenient.

Walking the streets of Phoenix, AZ, in the month of August when the temperature is 115 degrees is inconvenient.

I do not know any of us who are drafted into these positions. And there are certain things we have to do, a lot of them, in order to arrive at this, in my view, the most honorable position that any man or woman in our country could hold.

The real problem with fundraising in the eyes of the American public is not getting large numbers of people financially involved in a campaign. Nobody is objecting to $100 contributions. Nor is anyone objecting to thousands of individuals giving $100. It is the very large donors and the PAC's, and the perception that special interests are buying access or influence, that has got the American people upset.

I think that we now come to the part of campaign financing that is the most onerous and most bothersome to the American people—and that is the influence of the political action committees.

I do talk to my constituents about campaign reform. I do talk to them about how spending has gotten out of hand, and the difficulties involved in purchasing sufficient media to get our message across.

The message I get back from the people that I talk to and the letters I get is they are worried about the inordinate influence of political action committees.

What is interesting about S. 2 is that S. 2 preserves political action committees. I would suggest to my distinguished friend and colleague, Senator BOREN, of whom I have the utmost admiration, that if political action committees are perceived by the American people are the corrupting aspect of political campaigns today, let us legislate them out of existence. Let us put it into S. 2 that there will be no more political action committees allowed.

Then I think you would probably resolve about 80 percent of the concerns of the American people about this whole situation. Because they do not think that a person who comes to a barbeque for me and pays $25 and contributes to my campaign is corrupting the process. They do not even think that a person who comes to a dinner that I have and pays $100 is corrupting the process. But what they do believe is corrupting is a $5,000 primary contribution from a political action committee and a follow-up $5,000 general election contribution.

I would like to say a couple of words about political action committees, just to make the record clear. I think that political action committees are a method of political involvement on the part of the people. I think it should be of interest to the Members of this body that the average contribution to a political action committee in this country is about $25. They contribute their money to a political action committee which their company or their organization represents, and then representatives of their organizations or companies donate that money to a candidate or candidates who share their views, their agenda, who they feel will help them in the goals that they seek for themselves in this country.

They range across the board, as we know, including organized labor, patriotic organizations, to companies and corporations.

The fact is that in this country the biggest problem we face today is not to many people involved in the political process. It is too few people involved in the political process. In fact, perhaps part of the reason why my own home State is in such a severe state of turmoil and unrest is because we did not have enough Arizonans involved in the primaries and the general election. When some 10 percent of the eligible voters of my State are the only ones who vote in a primary election, we have got a serious problem.

I would suggest that a case can be made, and I subscribe to it, that participation in political action committees is a way of citizen involvement. Yet there is the perception, and perhaps it is an accurate one—I am not here to debate the point—that political action committees are corrupting to the process. I say, Mr. President, if political action committees are viewed by the American people as corrupting the process, let us do away with them.

I would also like to point out I speak from a somewhat parochial viewpoint. I have some figures I will go through in a few minutes. The majority of the political action committee money today goes to Democratic candidates—labor PAC money by an overwhelming margin and business PAC money by a significant margin. The majority of the contributions to the Republican Party and their candidates come from small contributors. So, as I say, I am not entirely selfless when I recommend this.

If we are going to be fair about this issue I think the political action committee issue has to be addressed.

Take for example the big political action committees who maximize their contributions all over the Hill that are not touched by S. 2. There is nothing in S. 2 to stop any political action committee from giving any candidate $10,000 just like they do now. The only differences is that there will be a race to the trough very early in order that they can get in before the PAC contribution limitation is reached. Yet Common Cause, with its now-famous monopoly on integrity, truth, and fairness, tells all of us in full-page advertisements that this Nation is suffering from those Senators who oppose S. 2 as "defenders of special interests and defenders of the national scandal".

Moreover, Common Cause circulates lists of Senators who have voted against S. 2 with PAC contributions next to their name, insinuating that we have been "bought" by PAC's.

Let me repeat that. Common Cause circulates lists of Senators who have voted against S. 2, not for, but against S. 2, with political action committees' contributions next to their names.

I have a list here which is very interesting; the latest from the FEC reports with total figures as of February 9, 1988. It might be of interest to my colleagues to know that five—the top five—recipients of PAC money as of February 1988 are of the Democratic Party. Eight out of the top 10 of the major recipients of money from political action committees are of the Democratic Party. Eleven of the top 15 are of the Democratic Party.

The lead is held by my esteemed friend and colleague, Senator BENTSEN of Texas, who has been able to amass this early in the season $1,380,407.91. I would be curious who the 91-cent contributor was. But he is followed by Senator SASSER. Our distinguished majority leader, Senator, BYRD, has been able to acquire $663,379.63.

There have been races this cycle where the challenger has sought from the Democratic incumbent an agreement to limit the amount that both candidates would expend, and unfortunately those proposals have been rejected.

But the fact is that I respect and admire my friend, Senator BOREN, who has worked so hard on this issue. He is a honorable man, a decent man, in fact one of the finest that I have ever known. These objectionable tactics by Common Cause are not his.

I have never known Senator BOREN to accuse anyone who disagrees with him on this issue of anything but the highest motives. But I do object when public interest groups portray those of us who are opposed to S. 2 as being bought by political action committees, and yet makes no mention of those who have received enormous amounts from PAC; significantly more than those opposing S. 2, and make no mention of them.

You know, so far in this election cycle, more than 62 percent of the incumbent PAC money has gone to Democrats. The top 10 Democratic incumbents have already exceeded the S. 2 PAC fundraising limits, if S. 2 were in effect, by over $2.5 million before the calendar even turned to 1988, the year of their election.

Friends, we cannot have it both ways. Either you believe PAC's are special interests undermining the integrity of the Senate, in which case S. 2 should abolish them, or you believe PAC's are OK. I do not quite understand how we can condemn the process and yet propose legislation which keeps the corrupting part of it in existence.

I think that the American people, when they learn these aspects of S. 2, will be less enthusiastic than perhaps they might have been.

The other area that I mentioned earlier that is indeed troubling about S. 2, and is an area that neither Common Cause nor its Senate proponents advertise prominently. As I mentioned, it is the use of taxpayers' dollars to fund congressional campaigns. We do not deserve it. This is the Congress that brought the people staggering budget deficits and overspending. This is the Congress that passes bills with almost no debate that contain literally pounds of new spending. This is the Congress that every time it hits a Gramm-Rudman deficit reduction target, moves the target.

(At this point Mr. BREAUX assumed the chair.)

Mr. MCCAIN. Now, do the American people want to reward us by setting up a new program where the Federal Treasury pays into our reelection campaigns? I do not think so. Candidates for office in my opinion should be required to depend on the people they want to represent for support, not special interests, and not the U.S. Treasury either.

The Watergate Committee addressed this, and I think this is an important part of the record, Mr. President. After the terrible scandals of Watergate, part of the committee's task was to review the reasons why the Watergate scandals came about, and they reviewed various campaign law reforms after that terrible chapter in our Nation's history. They said, and I quote:

> The Committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government. * * * The Committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."
>
> The Committee's opposition is based, like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

That is the view of the Watergate Committee.

Mr. President, I am told that I should stop for a minute while the Senate pauses for a prayer, and for that I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

[The following proceedings occurred at 12 noon, Thursday, February 25, 1988:]

The hour of 12 o'clock having arrived and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 29, 1960, the Senate will now suspend while the Chaplain offers a prayer.

The Senate will be in order.

PRAYER

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

Let us pray.

Come unto me, all ye that labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn of me; for I am meek and lowly in heart: and ye shall find rest unto your souls. For my yoke is easy, and my burden is light.—Matthew 11:28-30.

Gracious Lord, thank You for this gentle invitation at a time when bodies and minds are weary—emotions raw—frustration growing as strong wills clash. In this busy, pragmatic world of politics, it is easy to think of You—if we think about You at all—as irrelevant—a God of the sanctuary and not the marketplace. Help us to perceive Your reality—Your nearness—Your love—Your boundless resources at the time of need—and give us the grace to come to You and find rest and renewal. Thank You, Patient Lord.—Amen.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I know my colleague from California, my colleague from Washington, and my colleague from Minnesota are all here, perhaps wanting to speak on this issue, so I will conclude.

I will be very interested, as always, in the comments of my colleague from California, who has such an enormous fundraising challenge. Perhaps only he and his colleague, Senator CRANSTON, have the problem of some 50 media markets and multimillion dollar campaigns.

So I will conclude, Mr. President, by saying that we all know the reason for this filibuster, and the reason that S. 2 is being pushed so very hard by the other side. S. 2 would maintain the Democratic Party in the majority for the next 40 years. We know that. It is very clear and unless changes are made to S. 2 that will bring about a level playing field, you are going to see a continuation of this kind of a filibuster.

I think it is worthy of note that we spent 25 days now debating S. 2. We were given less than 24 hours to consider last year's megabillion dollar continuing resolution.

Does it make sense to devote 25 times more floor time scrutinizing what campaigns spend than what we, the Congress, spend on the operation of the entire U.S. Government? I don't think so.

We did not pass one single appropriation bill into law last session. We

have not spent 1 minute of floor time on the Clean Air Act reauthorization, a bill that truly affects every American and our quality of life. And there is a long agenda of legislation that I believe this body needs to bring up.

I would also say, Mr. President, that it would do far more good for the American people on this issue—and indeed there needs to be repairs made in the system—if we could sit down together as honorable men and women and arrive at the kind of compromises that are necessary. We should make the compromises that are necessary, compromises that address the issues of soft money, compromises that address the issue of independent expenditures, the compromises that indeed address the role of political action committees in the political process, rather than just some kind of arbitrary limitation.

These compromises are going to have to be made. Indeed, after the vote at 10 o'clock on Friday, we will again prevail and cloture will not be invoked. I hope that we will get our gang of four, as we call them, four dedicated Republican Senators and four Democratic Senators, who are willing to sit down and arrive at a reasonable and honorable conclusion that we can all support. We must restore the confidence and faith of the American people in the electoral process of this Nation so that they can be sure that they are indeed electing their representatives, and the most qualified representatives, rather than that selection being made by some special-interest groups.

I would again like to thank my friend and colleague from Oklahoma, Senator BOREN, who has handled this issue with integrity, candor, honesty, and dedication.

I am sure his reward for all the thousands of hours he has put into this issue will be in Heaven rather than here on Earth, but there are many of us who are deeply appreciative of the labor that he has devoted on this very important issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona yields the floor. Who seeks recognition?

The Senator from Washington, Senator EVANS, is recognized.

Mr. EVANS. Thank you, Mr. President.

I had the opportunity to speak at some length last night, but since the time was from 1 a.m. to 3 a.m. there were only a few hardy souls in the Senate Chamber ready to listen. I thought I would come back at a much more civilized time at noon so that I could speak with many more of my colleagues.

I find to my dismay that there are precisely the same number of Senators in the Chamber now as there were at 3 o'clock this morning, different Senators, but the same number.

Mr. President, let me say that the events of the last few days have troubled me greatly. I have had many questions asked over the last several months as to why I have chosen not to run for reelection and why I am leaving the Senate.

The actions of the last several days may be a pretty good example of precisely why that is true. We have had a massive overkill in terms of actions in the Senate. I have never, either in my political career or in my private life, in either adolescence or adulthood, ever before in my life been subjected to an arrest warrant.

And, frankly, I am more than distressed and dismayed and personally offended by that fact.

I happen to have not been aware, and perhaps that was my fault at 1 o'clock in the morning not being aware that there happened to be a request for absent Members.

I find it frightening almost that on this issue at this time for this purpose for the first time in several political generations this was found to be necessary. I do not believe I need anyone, even people as distinguished as the leadership of this Senate, to tell this Senator his Senate responsibility.

It has been said on several occasions during the course of this debate during the last several days that the American people know who kept this bill from passage.

This bill is controversial and we have had a plethora of speeches on one side and the other, but it is interesting to note that every time we reform in a situation like this of campaigns, every time we reform campaigns, we seem to create another evil which we then turn around and attempt to reform a decade later, and in doing so we are in grave danger of simply creating new evils.

What will we be doing 10 years from now? What will we be doing when the Senate comes back in the year 2000 saying we need campaign reform?

Will it be to correct the very things that some would advocate in S. 2? I fear so because if we look back at the corrections we made in 1974 they were corrections designed to correct the evils perceived at that time. And so what did we create? As a correction for these evils we invented the political action committees and now we are saying that somehow they are evil.

Mr. President, I think we too often aim at the wrong targets, misunderstand what we are doing with new legislation, and end up failing to reform but merely change.

Today some would suggest that public funding—this is the new thing—public funding is the be all and end all, that somehow if we only could have public funding that we would correct the evils in the Senate campaigning.

Well, Mr. President, let us take a look at some of the results of public funding as carried out in the Presidential campaigns and particularly the primary campaigns of 1988.

We have seen strange things done, strange things indeed, in some of the early primaries and caucuses. In Iowa, people fly in and fly out of the State rather than staying for extended periods of time. There are staffs of the various candidates. People rent automobiles in nearby States rather than in the State of Iowa itself, which does not appear on the surface to be a very logical thing to do. And then when you dig a little deeper you will find out why and the why is because with public financing and the limits placed on expenditures in each of the primary States, people bumping up against those limits find that they can evade or get around or use the rules in a way that makes evasive, sometimes dishonest people out of those who would otherwise be a lot more straightforward and honest, and so they fly in for a few days and then fly out for a day or two and fly back because they can ensure by doing that that the money for the salary will not be counted against the State's allocation. They rent a car in another State but use it in the State they are focussing on and that will not be counted.

In this combination of public financing and of campaign limitation we are in real danger of just creating, especially in the minds of the young campaigners, the next generation of office holders and of leaders in this Nation, a whole new morality and that morality is to find out how you can use the rules, evade the rules, get around the rules and sometimes, when it is necessary, even break the rules because they are attempting to force you into actions.

One of the most distinguished political reporters in the United States, David Broder, said that public financing as it is now applied has had the impact of deteriorating grassroots campaigning in this country.

Is that reform by doing something that really deteriorates grassroots campaigning?

No, Mr. President.

I think that when we are focusing on reform, we ought to thoroughly understand each change we propose and determine whether it in fact really is reform or merely change.

I am tired of assumptions and the thundering of many on the floor of this Senate that somehow political money is equated with crookedness, that all of those who receive it are somehow evil or perhaps even illegal.

I do not believe that for one instant. I believe it is much more common for people to support those who are running for political office because they believe from the beginning that that

person has the philosophy and stands for issues that are compatible with their own interests. They are not just shoveling out money to someone hoping that by doing so they are going to change their philosophy, reverse their interests and somehow with a fraction, a small fraction, the largest campaign donation of anyone, a very small fraction of 1 percent of a total campaign finance, and somehow you can buy any 1 of the 100 of us in the Senate. I just thoroughly reject that.

It is time, Mr. President, for facts. It is time to recognize that the real focus and the place that we ought to be emphasizing reform is to do an even better job than has been attempted in S. 2, to get at the problems of wealthy candidates, those who use an extraordinary amount of their own money to come in and literally attempt to buy an election on their own behalf.

Fortunately, that does not seem to work too well. Recent experience of that shows that those who have used an extraordinary amount of their own money, more often than not, have lost.

We attempt to get at that to a degree with this bill, but not well enough. And we cannot do a very good job at all because of constitutional prohibitions of getting at independent expenditures, those expenditures made not on behalf of the candidate but very likely in opposition to a candidate without the candidate's knowledge or the knowledge of the candidate's opponent.

I think that is the real scandal of campaign financing, independent expenditures, which, Mr. President, believe me—if we put limitations on PAC contributions, put limitations on campaign spending if in fact all of this money out there is evil, what in the world do we think those evil moneybaggers are going to do? Just pack up and go away? Well, of course, they will not.

If in fact they are evil, and they are seeking undue influence, they will merely turn their emphasis to independent expenditure; independent expenditures which can be virtually limitless, which are almost always negative in their impact and which are among the very worst of our campaign problems.

Mr. President, I think there is another thing. We could easily and readily do something about it right here in this Congress; that is, to cut back the scandalous advantage incumbents have by the use of franked mail, the excessive use of newsletters, and polls and the other communications we send out to constituents.

A certain amount of that is appropriate. But there is no one among us who does not realize that much, if not most, of that money is utilized for reelection campaign purposes. It may not be put in exactly those terms, but that is the end result, that is the end goal sought. We could do something about that. But what do we do in place of that? In S. 2 we instead institute a brand new postal subsidy which will be financed by the taxpayers and the stamp buyers of this country.

It is a ridiculous expectation that we should give this special subsidy to just enhance the very same thing that we already give free to all incumbents.

Mr. President, the true answer is not in much of what we have been aiming our sights at. The true answer is in several of these other arenas where we have not done much of a job. I would hope that at least in one small way we could add to whatever bill comes out, if one does, an element that I think would go a long way toward changing the nature of political campaigning from negative to positive. That is adding to the current requirement or incentive, I might say, that gives the lowest rate for political advertising to those who have the candidates involved in the radio or television campaign.

Now, how much are they invoved? It is common for the candidate to be only involved by reading the last little squib, "This ad paid for by the So and So Committee." That is the candidate's involvement. That is what qualifies that candidate to get the lowest possible rate. But the rest of the ad, or the rest of the representation, all too often is negative in its connotation, is focused on an opponent and says little or nothing about that candidate's ideas, philosophy, or rationale for being elected to office.

The proposal I have introduced is one that would require a candidate, in order to get the lowest rate, to be in the ad 100 percent of the time, that the ad would really be a candidate speaking out to the voters telling them what that candidate believes and thinks about. I think that in itself would do more to cut out negative campaigning than virtually anything else we could do.

It is one thing to have these clever ads thought up by the gurus of politics of today, clever ads that virtually always are aimed at tearing down an opponent, but it is quite another thing for a person to stand up, running for political office, and day after day after day in the political advertising they put out speak up personally and use that time to negatively go after their opponent time after time after time.

People in this country are too smart for that. I think there would be a rejection of candidates who sought office in that way, and nothing would do us more good in switching from negative to positive campaigning than to require candidates to speak up personally, directly, all of the time, when they are engaged in political advertising.

That is what we need, Mr. President. We need to devise a system that enhances positive campaigning, that reinvigorates people's willingness to participate in the political process; that gets us to the point where we once again start rising in the pecentage of people who choose to take part in elections rather than seeing a slow, steady erosion of citizen interest.

The true answer, Mr. President, is to once again make every citizen of this country a politican, to make them politicians in the true sense of the word, politics being the art and science of government, and to be a politician, to be a practitioner in the art and science of government.

To that degree every citizen need to be and ought to be a politician. Their involvement in political campaigns requires them to do more than vote. It requires them to take part in the political campaign, to participate actively, and give of their own time. And it requires them to devote whatever money and time they can to support their political candidate and also requires, after an election, the involvement of citizens in telling their officeholders what they think, how they believe and how they would have those officeholders act.

What is the best way to reinvigorate that interest of citizens in politics? Well, it is to enhance, not degrade grassroots politics. And I fear that what we are aiming to do would tend to not enhance but degrade grassroots politics as David Broder has pointed out. I think we can move a long way toward enhancing positive campaigning by requiring candidates to fully participate in whatever means they are using to get across to the citizens.

I do not think, Mr. President, we need S. 2 with all of its limitations and artificialities, at least as it is now written. I do not think we need to create a system that encourages, makes almost necessary the actions of campaign teams and candidates themselves to look at the rules, the expansive, extensive increasing number of regulatons we are about to lay on our campaigners, and say how can we get around those rules? How can we work the system that you are regulating us under?

That is no way to create a better campaign system and a better democracy and a better country. That is where I think our focus is wrong. And it is about time we ought to return it, to bring it back in an appropriate direction. And I hope we can do that, by people on both sides of the aisle working together for an appropriate campaign reform bill that will not require us to come back a decade from now saying My Lord, what did we create a decade ago?

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, if the Senator from Washington would stay just a moment, I would like to engage in a short colloquy because, first of all, I have an immense admiration and respect and long friendship with him as a Governor. I served as Governor many, many years ago, longer than either one of us would like to admit.

Let me just start off, Senator, by asking this simple question: Does the Senator think that the existing system of financing political campaigns for the Senate, for example, is a good one?

Mr. EVANS. I think that it is a reasonable one, not as good as it could be, but not as bad as some would suggest. There are as many different ways of financing political campaigns for this Senate as there are Senators. Some have chosen voluntarily to not accept political action committee donations and they have been very successful. Others have chosen not to accept any donations over $100. They have been very successful. At least one Senator here to my knowledge gains reelection by overwhelming majority spending virtually nothing in terms of political campaign donations.

So the system is how you would like it to be, but I do not think it is as bad as some would suggest.

Mr. BUMPERS. The Senator has heard these statistics bandied around here many times in the past few weeks or the last few days anyway as we have debated this issue. But the cost of running for the U.S. Senate for example has gone up about 100 percent over the past 8 years so that this year the average cost of a successful campaign, be it incumbent or challenger, this year is anticipated to be a mimimum of $3 million, and that means that every United States Senator if he is going to spend that much—some spend much more than that—the average cost is $10,000 a week.

Does the Senator find it offensive in the least that the Members of this body have to spend that much time raising that much money in order to retain their seats?

Mr. EVANS. As I have just said, it may or may not be necessary for every candidate to raise that much money. That is up to each candidate and each incumbent, and it depends on each State. I think in many cases we may raise more money than is necessary just because we have gotten into the game. I raised in my special election $2 million in 60 days. But that was from 10,000 people. When you divide that out, that is broadly based support from an awful lot of people who cared a lot about that campaign and while it is a lot of money. I do not feel that I was bought by any one of those donations. I do not feel that it was a distorted campaign in that respect.

But I would tell my good friend from Arkansas that there is a reason for campaigns rising in cost as fast as they are. Last night I had the opportunity between 1 and 3 a.m. to speak up on the issue. I said then that while campaigns in 12 years or 14 years had increased by 500 percent, that when you took into account the cost-of-living increase it was down to 125 percent. Three quarters of that was just simply the increase in the cost of living. But there is something else at stake.

The cost of living does not really measure the true cost increases in campaigning. I went back and looked, and found that in my own campaigns 11 years apart, from 1972, the next one in 1983, the cost of political advertising has gone up 400 percent on television, 250 percent on radio, 200 percent in the newspaper.

I think if we wanted to do something to really limit the cost of political campaigning we ought to suggest to our good friends in the media who complain so much about the cost of political campaigning that they ought to offer free advertising. We would not have to spend too much money on political campaigns.

Mr. BUMPERS. Well, Senator, it is true that no Members of this body or anybody who chooses to challenge a Member of this body in a campaign, they do not have to raise any money. It is obviously their call as to whether they are going to raise money and to some extent it is their call how much they are going to raise. But in practice, the statistics are overwhelming, absolutely overwhelming, that nobody is opting to walk the distance of a State and hope that the publicity they get by walking across the State will be a substitute for that $2 or $3 million they can spend on television. And the real fact of the matter is that virtually everybody—I spent $1.5 million in 1986 and the Senator may have heard me say that it was twice as much money as I had spent in the preceding seven campaigns I have been involved in over the past 15 years. Twice as much.

Now, $1.5 million, I will tell you where that ranked me. Out of the 33 Senators running for reelection last year, I scored 26th. I am saying that 25 Members of this body spent more on their campaigns than I did. Now I would like to have been 33d or 34th or I forget how many of us were running. I would have liked to have been on the bottom of the ladder.

My opponent, totally unknown—probably did not have over 5, 10 percent name recognition when he announced against me—raised $1 million, a good part of it from people who never heard his name, through the bundling process.

Incidentally, on that point, does the Senator agree with me that we ought to stop bundling?

Mr. EVANS. Well, it depends on what you mean by that.

Mr. BUMPERS. Let me describe what I mean.

Mr. WILSON. Will the Senator from Arkansas yield for a question?

Mr. BUMPERS. If the Senator would withhold for just a moment.

Let me say, when I talk about bundling, I am talking about in this case where people all over the United States sent the Republican Senatorial Campaign Committee thousands of contributions from $10 to $100 and the Republican Campaign Committee sends that money out to whichever candidates they want to. That is what bundling was in this case. Because all of a sudden we get a finance report with about 1,000 or maybe 2,000 names in it. The newspapers began to call those people and asked, "If you live out in Washington or Oregon someplace, why are you contributing to Mr. So and So?" And the answer every time was, "What are you talking about? I never heard of him. I just sent $10, or $25, or $100 to the Republican Campaign Committee." That is what bundling is to this Senator.

With that definition, accept it for just a moment, does the Senator agree that that is a good way to finance campaigns?

Mr. EVANS. You bet I do. I will tell the Senator why. Because I think it is a lot more honest and straightforward to develop the strength of the political parties of this Nation to allow people to contribute money to political parties, political parties which by their very nature are umbrellas designed to bring in people under some very broad principles, to support and advance those principles. And if a person contributes money to a national political party or a State political party and that party in turn chooses to support candidates of that party all over the State, in the case of a State party, but the person who donated happened to come from a particular county or city in that State but was donating to a party because he believed that party stood for something that was important—they in turn used it to help advance the cause of the party and the candidates of that party and you do the same thing at the national level—what in the world is wrong with that? What in the world is wrong with that?

Mr. BUMPERS. Senator, we have a big, big difference on that. I think there is a lot wrong with that.

But let me ask you a second question then. Let us take the case of where Mr. Gotrocks says to his neighbor, who is Gotrocks II, "I have given all I can give to old so-and-so"—we will say up in New York. "I have maxed out. Now you don't know him but you have got a candidate," we will say, "in West Virginia that you have been supporting and you have maxed out on him. I will raise $5,000, $10,000, or $100,000 among my friends and send it to your man in West Virginia if you will raise $100 grand and send it to New York."

How about that? Does the Senator think that is an ethical way to finance a campaign?

Mr. EVANS. Well, I would say to the Senator that there is no set of rules and no law we can pass that will ensure ethical action on the part of every person covered by a law. It will not work in campaign financing. It does not work in criminal law. It does not work anywhere else. Otherwise, we would have the easy end result of passing criminal legislation and making sure that everyone lived up to criminal law. We could end crime in a minute if we could do that.

I do not condone everything that happens under the current system. What I am saying is that let us make sure before we do a new job and create a new system that we do not end up just having a whole new area and a whole new arena of things that will prove to be just as bad or just as evil or just as troublesome as the things we have today.

I would say to the Senator from Arkansas, as I mentioned in my remarks, I think political action committees are a perfect example. They came about as a reform, a reform of the election laws prior to 1974. They came about as a way to bring people together and give them a way to collectively put their money to use in political campaigns. Now we are saying somehow they are evil. Are we going to end up with the bill in front of us just creating a whole new set of barriers that will teach people to evade the law in a whole new set of ways and come back 5, 10, or how many years from now saying, "What in the world did we do? What kind of new devil did we let loose on the American political scene?"

Mr. BUMPERS. So the answer to my first question to the Senator—which was, do you think the present system of financing campaigns is just jakie—I take it the answer to that is yes?

Mr. EVANS. No; I answered it once before and I said I did not think it was as bad as portrayed by some and not as good as it might be. I am not opposed to legislation. I think we can craft legislation that would be worthwhile, that would have the best chance of being legislation that would be used by people as positive and would continue to be viewed as positive over the years, legislation that would be easily lived up to and would not deteriorate our opportunity for grassroots campaigning. There are lots of things we can do. But I am not suggesting that S. 2 is any answer the way it is currently written.

Mr. BUMPERS. Let me say I agree with the Senator. I am not suggesting that S. 2 is a perfectly crafted bill. There are some questions about it I suppose that all of us would ask and there are probably some provisions in it that can be circumvented by a very wise lawyer or a gifted candidate.

But the one argument that I do not understand and I would just like for the Senator to comment on if he would, the only argument here that I cannot fathom is that somehow or other limiting the amount of money you can spend on a campaign favors the incumbent.

Now I recognize that if you are an unknown challenger you do have to spend more money to get known. But the Senator himself pointed out a moment ago that a lot of people are successful in ways other than just spending tremendous sums of money. I ran against one of the wealthiest men in America who spent about $3 million when I ran for Governor the first time. And I think all of my primary campaigns and general election combined cost me one-tenth of that and I won almost by a 2 to 1 majority. So money does not always work.

But my point is this: The present system, the reason it is so corrupting and politically erosive of people's confidence in our political system is because it is the incumbent who can raise massive sums of money as opposed to a challenger. You go back, Senator, and look and see who is being defeated and you will find that the incumbent, the big percentage of them, are being reelected and they are not just being reelected because they are fairly well known in their home States. They are being reelected because they can literally raise millions of dollars. And the reason they raise millions of dollars is because the people who are giving it find it to their advantage.

Will the Senator agree with at least that part of the argument?

Mr. EVANS. I wish I could agree with that part of the argument. Because if in fact those who have raised the most money in political campaigns for the Senate in 1986 had won their races, we would still be in control of the Senate.

But I would suggest to the Senator that if he looks carefully at the results of the 1986 senatorial election, he will find that in most of the cases where incumbents were defeated and where seats were changed in this Senate—a sufficient number to change the majority—the challenger spent less money than the incumbent.

So I wish I could agree with the Senator, but the facts do not bear him out.

Mr. BUMPERS. Then why does the Senator fear this bill?

Mr. EVANS. It is not a question of fearing the bill so much as it is a question of wondering whether it advances anyone's cause very much in the way it is now written. And I have spoken on it at more length than I really cared to last night because I was asked to. But I came at 1 o'clock in the morning with lots of material, figuring that I would, after a short period of time, have to go on to other things just to fill the space. I found, as I got more and more into it and enthused about what I was saying and working on the various aspect of campaign reform, that the 2 hours went past very rapidly and I did not miss a trick in talking about campaign reform during that entire period of time. And I would commend that short novel to my good friend from Arkansas.

Mr. BUMPERS. Senator, I will not belabor this any further. But let me just ask you this simple question. Does the Senator believe that the present system, which allows political action committees to give $5,000 and individuals to give $1,000, does the Senator believe that that has any kind of cause and effect so far as cynicism toward politicians and the political process in this country is concerned?

In short, do you think a guy out on the assembly line making $10 an hour, which is more than assembly line wages in my State, do you think that that person has any interest in collecting $10 or $25 to a candidate when once about every 2 months he picks up the paper and he sees where Senator BUMPERS has raised $1 million in the last 3 months. And it is so much that the newspaper will not even present your name in my State unless you gave at least $500. Now, to a guy working on an assembly line who would like to be a part of the political process—and we would like for him to be a part of it; we want to encourage him to vote; we want him to believe in the politicians that represent his country—how do you think he feels when he sees all the rich people in that community, most of the names familiar to him, who have contributed heavily to a candidate? Why would he want to give a $5 or $10, knowing that his name will never be mentioned to that candidate? No way, that nobody, that his name will ever be mentioned by that candidate.

Now, when you get a $5,000 contribution from a political action committee, I promise you every Member of this body knows who that political action committee is because $5,000, as W.C. Fields used to say, "ain't beanbag." We are told that this political action committee has given $5,000. We are told who gives $1,000. You are never told who gave $5 or $10, because it just is not enough for a candidate to mess with.

Do you think that has any erosive effect on the cynicism toward the political process in this country?

Mr. EVANS. Let me say to the Senator from Arkansas, my good friend and colleague, I have enjoyed this colloquy. I will answer his question. I know there are a number who wish to speak, and I would like to yield the floor

after this response so Senator SPECTER might begin his turn, or whoever seeks recognition.

Of course, there is cynicism. There is cynicism because people are told constantly through the newspapers and elsewhere and by some in political office that this is an evil system and that giving money is bad and giving a lot of money is worse. Of course, they are conditioned and told constantly that this is a bad thing to do.

I would say to the Senator I cannot think of anything that would be better than not only to have the full disclosure that we have but to ensure, somehow and in some way that that full disclosure of all campaign donations could be put in the hands of every citizen.

You know, there is one thing we do not have. We talk about full disclosure. We do not have full disclosure. We have censorship. The censorship perhaps of necessity, but it is the censorship of the press who looks through the lists that are sent to the Federal Election Commission and they pick out the juiciest and the most interesting and perhaps the biggest. But in doing so they miss the real story.

The real story, at least in this Senator's experience, is that every single election campaign has had thousands upon thousands of campaign donors.

I am proud of that and I think that is the case with most people who run for the Senate. People get a mistaken understanding because, you are right, they never see that $5 and $10 donation. They never see how many there are, like that person who are contributing $5, and $10, and $15, and $20. It would put things in a lot better perspective if, instead of only seeing those people up at the top with fairly large campaign donations, they say the whole pyramid. They would understand a lot better that campaigns are made up, by and large, of that broad base of public support. I think that would help encourage them to give their small donations, knowing that to the degree they gave small donations, it makes unnecessary excessive dependence on large donations.

I think we ought to appeal to the best instincts of Americans and not simply continue to tell them, because we only give them partial information, that the system is evil and it is bad and it is corrupt and it is controlled by big money when I do not think for one instant that that is true for the broad base of Senators here and the campaigns they have most recently run. It certainly would not have to be true if we can somehow regenerate, be more positive in our approach to people and their responsibilities and the chances they would have to contribute their small amounts.

If every citizen in this country in their approach to Senate races contributed $5 or $10, we would have an overwhelming increase in the amount of political campaign money available and not one dime of it would have to come from large donations.

Mr. President, I thank the Chair and I thank my colleagues.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Just to be totally candid, I am not going to belabor the time of the Senator from Washington, but I want to say in the interest of candor, before I yield the floor, that I think there are times when an administrative assistant walks into a Senator's office and says: Mr. So-and-so just dropped by out in the outer office. I have checked and he and his wife each gave you $1,000 last time you ran.

I have heard—I cannot verify this—but I have heard that that sort of thing happens around here from time to time.

I have also heard that administrative assistants sometimes will take a stack of phone calls in to the Senator and say, "Here are a list of phone calls." "Did you ever hear of this guy?" "No, I did not." "OK, I will hand that to so-and-so to handle that."

"Here is a call from Mr. So-and-So. He is head of a political action committee."

"Give me that one."

"He wants you to call him back within the next 10 minutes."

"Here is Mr. So-and-So. He and his wife gave you $2,000." "Let me have that one." "And here is Mr. So-and-So, who gave your opponent $2,000."

You say, "I ain't returning that one."

I am just telling you that I have heard—I cannot validate this—but I have heard that things like that happen in Senators' offices in this capital city and in these buildings around here. I know that is hard for people to believe but that happens. And for anybody to say that we are improving people's images of the political process and to convince them that money is not buying access if not votes, is naive in the extreme.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair. Mr. President, I have sought recognition to address the subject of the issuance of warrants of arrest on the matter which arose in the Senate after midnight on February 23 and to seek a procedure to establish rules to govern such conduct in the future. What I essentially seek are standards to bring some rationality to the practice where it may be necessary, under extraordinary circumstances, to issue warrants of arrest for U.S. Senators.

The Constitution speaks about compelling the attendance of Senators. There is nothing in the Constitution or in the rules which talks about warrants. And there may be extraordinary circumstances where warrants of arrest would have to be issued. But I submit that we ought to establish some standards and some rules. And I propose that four rules be established and will outline a procedure where the Senate may, today, take action to correct the practices of yesterday morning.

Those standards, I submit, should be as follows. First, no middle of the night warrants. There are rules, Mr. President, which limit nighttime activities of enforcement procedures in a wide variety of ways, including no-knock statutes. It is different to seek a warrant of arrest during business hours. There are differences in requiring a Senator to be present during business hours and perhaps as late as 10 o'clock, perhaps as late as 11 o'clock. But there should not be middle of the night warrants.

Second, that there should be compliance with rules that warrants be signed by the Vice President or the President pro tempore or the designee of the President pro tempore, as specified by the Rules of the Senate, so that there can be an independent review of the application for a warrant very much as there is an intervening magistrate who takes a look at and authorizes any warrant of arrest or any search and seizure warrant or any warrant calling for compliance; to put that level of scrutiny and objectivity into the process.

Third, that there be a written statement establishing the reasons for the arrest so that there will be a requirement that someone sit down in a thoughtful manner and write out why someone is being subjected to arrest.

The current warrant form has a blank which approximates that requirement, where it states: "Bring to the bar of the Senate blank" given Senator, BOB PACKWOOD on one, L. WEICKER on another, "who is absent without leave," colon—"to wit" and then a blank appears. It wasn't filled in in the Weicker or Packwood warrants.

So that there would be the thoughtfulness as to why a Senator is being brought in under a warrant of arrest.

And, fourth, that there be equal treatment of Democrats, Republicans, or whatever party the absent Senators may belong to so that when warrants are sought, we do not have a situation, as recorded in this morning's Philadelphia Inquirer, that, "Senator BOB PACKWOOD, a filibuster leader ranked high on the Democrats' most wanted list was sought out to have a warrant of arrest served."

I raise this point at this time, after having sought information from the Chair yesterday late in the afternoon, about the requirements of the Senate that there be a return of service on

warrants as specified in the rule book and that there be information from the Parliamentarian as to the requirement that warrants be maintained in the Senate records.

I said yesterday that I had inquired of the Sergeant at Arms who is present in the Senate Chamber at the moment and can make whatever addition to what I have to say, correct me if he feels it necessary, that he had destroyed all of the warrants which were issued and I had made the inquiry yesterday afternoon and have consulted informally—or formally—with the Parliamentarian, Mr. Frumin, who is present on the floor of the Senate who can make any addition or correction if that should be warranted. He said he thought that such records should be maintained and we had a discussion about rule XI which called for the maintenance of such records.

Mr. President, I have consulted, I have referred to the rules, and find that if, as, and when I seek to make a motion to reconsider the vote on which the warrants were issued, that that would be in order since I was not a Senator who voted on that motion. I am further advised that, if the Senate votes to reconsider the motion on which the warrants of arrest were issued, that it would be appropriate under Senate procedure to seek a point of order that warrants could be issued hereafter only under specified conditions. The conditions which I have just enumerated are the ones which I propose, and—it would be appropriate that that point of order then be submitted for action by the Senate. If the Senate voted to affirm that point of order, then those conditions would hereafter govern the conduct of the U.S. Senate and those who execute its orders, the Vice President, the Sergeant at Arms, and so forth, in the issuance of such warrants of arrest.

The analogy was brought to my attention about action taken by the majority leader in seeking a point of order which has clarified the provisions relating to the two-speech rule.

That is the essence of what I seek to do, and I would now like to state the reasons that I propose to accomplish that, if this body chooses to do so.

Mr. President, my view is that it is imperative that the Senate clarify the procedure, the practice, and the standards for warrants of arrest. I say this because the Senate has long been known as the greatest deliberative body in the world, and I am concerned that the practices of this week may be making the U.S. Senate the laughingstock of the world.

We have undertaken a process here which, I believe—and I say this respectfully—requires scrutiny of the Senate. We have had a record number of votes on motions to invoke cloture. It is plain that there are 45 Senators who were in concrete in the past and now I would say are even more firmly fixed in their views as a result of what has happened.

We had the most extraordinary situation where the Republican Senators absented themselves from the Chamber on a thoughtful conclusion that that was the appropriate conduct because of what was happening in the United States Senate the day before yesterday, and that the Republican Senators would not stand by and be a party to providing a quorum for action in the United States Senate which the Republican Senators considered to be demeaning to the Senate and to the Republican Senators themselves. That action was taken with care and with thoughtfulness and not unaware of what might occur. We did not contemplate that there would be execution of warrants of arrest. We did not necessarily contemplate that there would be a motion for warrants of arrest. But had there been a motion for warrants of arrest, it was, indeed, surprising that a warrant was executed in the manner which then did occur. As a result of that, the front page of the Washington Post today has photographs of the arrestee and the arrestor and a caption of "Midnight Manhunt in the Senate." That appears on the front page of the Washington Post. In the Philadelphia Inquirer, there is a headline saying "Byrd," referring to the majority leader, "Byrd Sends Posse to Nab Errant Senators."

The recitation of what occurred is hardly flattering the reputation of the U.S. Senate, reciting that "Capitol Police forced their way into the office of Senator BOB PACKWOOD, arresting him and carried him feet first into the Senate Chamber in a flamboyant climax to a bitter all-night filibuster fight." That is in the Post.

The Inquirer says, "Posse of lawmen armed with warrants stalked unsuspecting Senators in the predawn hours at the U.S. Capitol yesterday. One senior Republican locked himself behind barricaded doors only to be captured and carried feet first into the Senate Chamber."

Mr. President, the action in the issuance of the warrants of arrest did not comport with the most basic standards of decency and the most basic standards of rights which are afforded the most heinous criminals in our society. Constitutional rights are elaborately set forth under our laws, and there are protections which this Senator submits ought to be equally available to U.S. Senators as they are to those suspected of murder where the evidence is overwhelming. Yesterday at some length I spoke about such cases and about the requirements of individual rights, and I shall not repeat them here today.

Mr. President, the issuance of the warrants of arrest I submit were defective in very material ways, and at the conclusion of my statement I will ask unanimous consent that the detailed statement of those reasons be printed in the Record, some of which was articulated yesterday and the essence of which was that the motion calling for the arrest was deficient in that the motion did not specify that the warrants of arrest should be issued.

When the motion was made on February 23 at page S 1152, "Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber," note the absence of any request that "warrants of arrest be required," contrary to the motion made by Mr. Barkley in 1942, the last time that a warrant of arrest was executed, where it appears at page 8839 of the CONGRESSIONAL RECORD. This is Mr. Barkley speaking.

> I therefore move that the Vice President be authorized and directed to issue warrants of arrest for absent Senators and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

I am informed that while there may be some disagreement with the requirement that there be a specification for warrants of arrest, there was no known motion having been made without that specification. I would submit that the requirement that a warrant of arrest be specified is sufficiently important that you cannot have the authority of the Senate to call for that action unless it is explicit.

This is not a casual or unimportant detail. The Sergeant at Arms does not have the authority to bring Senators into custody in the absence of a warrant. Where the majority leader seeks to have a warrant of arrest authorized by the Senate, I submit as a matter of rule, practice, and of law that there has to be that kind of a specification.

Second, Mr. President, the warrant was signed by someone not authorized to do so, signed by Senator ADAMS. The rules are explicit that that is not sufficient. In precedent on the matter, on the one warrant which was executed, the warrant was signed by the Vice President in 1942. The rules call for documents like bills or resolutions to be signed by the President pro tempore or by the Senator whom he or she designates or by a designee of that designee.

On the day in question, a letter was filed by the President pro tempore, Senator STENNIS, designating Senator PROXMIRE, and that was the end of it.

I would submit, again, as a matter of plain interpretation of rules that, where Senators may assume the role of the Presiding Officer, if there is a specific rule that governs the practice, he or she may fill in interstitially as to what a rule may be but not where there is a specific rule to the contrary.

And third, there was an insufficient statement in the body of the warrant. Whereas I had referred to earlier, there is a spot for setting forth the reasons for taking into custody an individual, the reasons for Senator PACKWOOD's being taken, or the reasons for his absence were not so filled in.

Mr. President, the technical defects, while important, are not the most important aspect of this matter. The real issue turns on what is fair and just and reasonable, more importantly as to what is going to happen in the future, but also a matter of importance as to what happened in the early morning hours of yesterday morning. Our Senate is a body which operates really as a matter of comity and as a matter of courtesy. The two most frequently used words in this body, as I said at some length before and shall not go into great length now, are "unanimous consent" and that without unanimous consent this body cannot function. This body concludes when the last Senator stops speaking, and if any Senator seeks to stop the operation of the Senate by making objections to unanimous consent it would be a very, very different organization.

When you have the considerations which are present in Senate bill 2, there is a very, very material difference of opinion as to what ought to be done.

I respect what the sponsoring Senators have sought to do in reforming the campaign laws, and I have spoken at length and repetitively on the floor of the Senate stating my agreement that there ought to be reform of the campaign laws, stating my willingness to vote to eliminate political action committees completely, stating my concerns about so-called soft money, and it is very important that there be campaign finance reform in this country. But when there are 45 U.S. Senators who feel so strongly about this issue to undertake all-night sessions and to vote seven times in opposition to cloture, that is a matter which has to be respected in terms of the rules of the Senate.

(Mr. BREAUX assumed the chair)

Mr. ARMSTRONG. Mr. President, I am wondering if the Senator from Pennsylvania will yield for a question or two.

Mr. SPECTER. I do.

Mr. ARMSTRONG. Mr. President, the issues which the Senator from Pennsylvania brings to our attention, it seems to me, are among the most important which have ever been considered here and I would like to ask a few questions simply to clarify the issues which he has so thoughtfully and ably raised. First of all, in his statement, the Senator has pointed out that this legislation, S. 2, was considered at great length last year. It was the subject of, I believe, no less than seven cloture votes, an unprecedented number.

Is it the Senator's belief that having gone through a number of cloture votes and a prolonged period of debate, it has been established beyond reasonable doubt that the bill was simply not acceptable to the Senate, that it was not going to be clotured and was not likely to pass in anything like that form?

Mr. SPECTER. I would respond to my distinguished colleague that votes on those seven cloture motions constituted very strong evidence that that would be repeated on the next cloture vote, but there was in addition additional evidence. There has been an effort made to work out a compromise, with the leadership on both sides appointing four Senators on both sides, and those Senators had met. I discussed on the floor of the Senate on Tuesday afternoon with Senator BOREN, the principal sponsor of S. 2, what the progress was and was told there was no progress. And then I discussed the matter with Senators on this side of the aisle and was told the same thing.

So that in the course of the extended discussion last week and what happened on the Senate floor on Monday of this week and then again on Tuesday of this week, it was made plain to this Senator that S. 2 was not going to be acted on; that under our rules and for good and sufficient reason historically—and there is a strong sense of 41 Senators, and that number was increased to 41 as my colleague from Colorado knows; it used to be that you required 67 out of 100 Senators. We did not have 100 Senators then, but it was the two-thirds rule and that number has been dropped to 60, but good reason established historically in this Chamber if that many Senators feel that strongly about an issue, it simply does not come up.

I might say by way of amplification there are other remedies; there is political pressure, and those who have supported the bill have not been hesitant about full page advertisements which have been printed in many States directed at specific Senators, including this Senator from Pennsylvania, a subject that I have talked about on another occasion. It was the conclusion of the Republican Senators who assembled in the cloakroom on late Tuesday night that nothing was going to happen and that the so-called drawing of the line did not constitute legitimate business of the Senate. This Senator and the other Senators realized that it is not up to any single Senator or group of Senators to make that judgment absent some really extraordinary circumstances. And there was a discussion which I had with Senator Kerry yesterday on a number of issues, and I conceded that his point there was a very good one but that we felt we had passed the point; that it was beyond the range of discretion; that it was really a matter which was demeaning to the Senators who were being called upon to stay all night and to respond to a series of rollcall votes; that it was conclusive there was no reasonable purpose, no legitimate purpose, and that is why the Republican Senators took the extraordinary step of absenting themselves from the Chamber, perhaps unprecedented in this body.

So that it was strongly felt that that action was necessary because there was no purpose being served. And when we had a session last night and Senators stayed here all through the night debating this issue, under what had been worked out as a gentleman's agreement with a time parameter having been established, again it was an exercise in abject futility, to keep Senators here all night debating an issue for absolutely no purpose except perhaps for someone to say, "Well, we had a hard-line filibuster."

Mr. ARMSTRONG. Mr. President, if the Senator will yield further, he is addressing precisely the object of my concern. The Senator has said that no purpose was being served. The Senator has pointed out that it seemed to be clear beyond any reasonable doubt this bill is not going anyplace.

The Senator has pointed out that we have had an unprecedented number of cloture votes on it. I am wondering if the Senator is aware of the widely-held belief that, if we consider further this legislation, to have it remain before the Senate day after day, let alone through prolonged night sessions, actually is a form of harrassment. Is the Senator aware that that is a widely-held opinion among Senators and others who have observed this process?

Mr. SPECTER. I am aware that that is a widely-held view, not only by Senators on this side, on the Republican side of the aisle; that it is a widely-held view beyond the Senate Chamber and a source of wonderment as to why the Senate is not moving on to other business and a source of wonderment as to why Senators are being called back in the middle of the night. Yesterday, Senator Stennis was on the floor of the U.S. Senate, and the only purpose I could see was for an expression to adjourn.

Senator SIMON was on the floor of the Senate, and I do not know the details as to where he was called from, but his activities have been in places other than the U.S. Senate.

So that I would answer my distinguished colleague in the affirmative.

Mr. ARMSTRONG. Mr. President, in that situation, the question then that naturally arises is, what recourse Senators would have after many months of debating this issue, after

seeking, both publicly and privately, to reach an accommodation on a very serious piece of legislation, after being treated to the appointment of negotiators for both the majority and the minority—then the question that arises is, what opportunity, what way of expressing themselves, was available to Senators? Particularly, I wonder if the Senator from Pennsylvania is aware of the fact that earlier this week, a notice was publicly given in this Chamber that it was the end of the gentlemanly filibuster. Does the Senator recall that, in effect, the Republican Members of this body were told that there were no Marquis of Queensbury rules; that, in fact, we were put on notice that we were not going to filibuster from 9 to 5 but that this was going to be an endurance test; and, in effect, does the Senator recall that what we were told was that the issue was no longer the passage of the bill but a contest of wills?

Under those circumstances, does the Senator readily suggest other courses of action that might have been available to Senators in the minority, other than to absent themselves from the Chamber?

Mr. SPECTER. I do not know, I respond. That was a matter which was considered at some length by Republican Senators, and this Senator is well aware, as were all our colleagues involved in the discussions, that the line was drawn; it was not to be a gentlemenly filibuster anymore.

That is why I believe it is necessary that there be set forth reasons for arresting Senators.

If there is some legitimate Senate business to be performed and if Senators are absenting themselves from the Senate Chamber and not conducting themselves in a reasonable manner, then maybe, under those extraordinary circumstances, there would be an occasion to arrest. But It was precisely these circumstances—that there was no earthly reason to be served—that we Republicans took that extraordinary step of absenting ourselves.

I might add this, because it is relevant to the question which my colleague has raised: In 1942, the only other occasion where a warrant of arrest was executed in modern times, there was a enormous furor over the service of a body warrant, and that was done in the daytime. It was done on Saturday afternoon, and it led Senator McKellar, an arrestee, to respond, to comment:

> Last Saturday there occurred in the Senate a most shocking performance, the like of which has not been known, so far as I can recall, during the 26 years I have been a Member of the Senate. . . . The action taken, therefore, was unusual, quite remarkable, and unexpected. I have never known such a thing to happen before. I think when we have had contests which were vigorous and active and, let us say more or less determined, each side would keep its own members here and maintain a quorum.

The RECORD goes on and on and on, indicating the unprecedented nature of a kind of situation which the Republican Senators faced late Tuesday night.

Mr. ARMSTRONG. Is it the Senator's position, then, that the absenting of Senators from the Chamber was an unusual response to a highly unusual situation—that is, the insistence on pursuing a bill which obviously was not in prospect to passage? I do not want to put words in the Senator's mouth.

Mr. SPECTER. You are doing a great job.

Mr. ARMSTRONG. Would it be the view of the action taken by the Senators, far from being a dereliction of duty, as some would characterize it, but in fact be a form of expression and an entirely proper form of expression under the circumstances? I take it that would be his view.

Mr. SPECTER. I say to my distinguished colleague, absolutely.

We were seeking alternatives. We were seeking other ways to make our point. There had been communication directly to the other side that we were fixed in our positions; that we would be glad to talk about compromise; that we would be glad to try to reach an accommodation on campaign reform legislation; that many of us on the Republican side were willing to give up PAC contributions completely; that we were prepared to find ways to limit the amount of money an individual could use of his or her wealth, which is the source of the unlimited amounts of money which are spent; that we were prepared to find a way to have an accommodation here on views strongly held by some 45 Senators.

Absent any other approach, but simply being told that we were to spend the night; that we were to respond to motions to compel; that we were to undertake activities in the middle of the night, totally unrelated to anything reasonable; and finding no alternative, we resorted to that approach.

Mr. ARMSTRONG. Mr. President, the Senator from Pennsylvania has been generous to yield to me.

I would like to just ask a final question or two, just to be sure that I have a understanding of his viewpoint.

Would I correctly summarize the Senator's point of view in the following terms:

First, that to insist upon prolonged consideration of this measure, that it had the subject of lengthy—indeed, very prolonged—debate last year and an unprecedented number of unsuccessful attempts to cloture, was it, in itself, an abuse of the process?

Second, that under that unusual circumstances, Senators were justified in absenting themselves from the Chamber, and that by doing so they were not be derelict in their duty but, in fact, responding in an appropriate manner to an highly unusual if not entirely unprecedented situation.

Third, that it is the view of the Senator from Pennsylvania that, bad judgment having been exercised in attempting to arrest Senators, this bad judgment was compounded by a process which is in his view legally defective; that it simply did not, even for one who thought the arrest was justified and well advised and in good judgment—that the process, the issuance of the warrant, and so on, simply did not fulfill the Constitution and the rules of the body.

Finally, I gather that is the view of the Senator that some reforms along the lines he has already discussed are necessary.

Is that a sort of brief summation of the Senator's views?

Mr. SPECTER. It is. It is a brief summation, and it is well put.

On the specifics which you have raised, I believe that the process had gone beyond the point of no return. There was no other recourse available to 46 U.S. Senators, constituting a very sizable majority of this body. We acted as we thought we must, that the processes which were being followed were not appropriate and were processes on which reasonable men could not differ, and that we had expressed ourselves in the only way which we saw possible.

Mr. ARMSTRONG. Mr. President, I am grateful to my colleague from Pennsylvania for yielding for my questions, and I look forward to his further discussion of these issues.

Mr. SPECTER. Mr. President, I have sought the floor for the stated purpose that I have outlined, because I believe this matter is one of great importance for the future of the U.S. Senate.

We have very, very important responsibilities to fulfill. Perhaps at no time in the recent past have the eyes of the world been on the U.S Senate as they are on the pending ratification process of the INF Treaty.

We have very important work to do for this country, and I do not believe that it is possible for us to proceed unless we come to grips with what has happened in the course of the last several days.

The Washington Post this morning carries the report of a news conference by the majority leader as saying that—and this appears in the paper without a direct quote but attribution to the majority leader. It appears in the paper as follows: "He said he regretted his action but added 'I would take it again if I had to. * * *'."

In light of the statement that the action could be repeated, it seems to me that this body has to have before it

a mechanism of seeking to avoid this kind of action in the future.

Mr. BYRD. Mr. President, will the Senator yield without his losing his right to the floor?

Mr. SPECTER. I will yield for a question, or I will yield so long as I may retain the floor when the majority leader concludes.

Mr. BYRD. Mr. President, there is no intention on my part to seek the floor at this moment.

Mr. SPECTER. Under those circumstances, will the Chair rule that I retain the floor?

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

Mr. BYRD. You have my word for it, whether or not the request is granted.

Mr. SPECTER. Your word is good by me, Senator BYRD, but I have observed you for many years seek a ruling from the Chair, and I think that is a sound practice.

Mr. BYRD. It is a sound practice.

Now, the Senator quoted me from the newspaper story. Would he repeat that quote again?

Mr. SPECTER. I will be pleased to.

The Washington Post says—perhaps it is best to read the full text.

"Byrd"—referring to majority leader ROBERT C. BYRD, of West Virginia—"held a news conference yesterday to contend that he was driven to the arrests by the Republican boycott and other stalling tactics to block a vote on the campaign-financing bill. 'Senators are supposed to be grown-up people, not kids,' he said, adding that they are 'paid to vote * * * not to run and hide.' He said he regretted his action but added, 'I would take it again if I had to. * * *'"

Mr. BYRD. I thank the Senator for reading into the RECORD the full quote.

I do not regret the action I took. I regretted the circumstances, the calculated circumstances, that drove me to take that action as my responsibility as majority leader of the Senate.

I thank the Senator. I regret that it had to happen.

Mr. SPECTER. Well, I am very interested to hear the majority leader's amplification of what appears in the Washington Post this morning, and I think that lends emphasis, considerable emphasis, for the importance of the U.S. Senate reviewing the standards by which the majority leader thinks it is appropriate to act.

I disagree—respectfully, always—with the majority leader about the propriety of that comment. We have a situation where there is gridlock in the Senate. There is no possibility of any constructive action being forthcoming from a continuation of the process.

You have perhaps an unprecedented situation where a large majority, 46 Republicans, not all present, decide to absent themselves. You then have a process where a warrant of arrest is issued. You have many questionable circumstances as to whether there was compliance with the rules, and you have the issue about a leader on the Republican side against S. 2 being singled out.

He is in his room. He had the door locked. He concludes that he is there as a matter of right. The Sergeant at Arms comes and uses a passkey to enter. As I said yesterday, Senator PACKWOOD said to me that a call was made. There was an issue as to whether the Secretary of the Senate was consulted or whether the majority leader was consulted. We do not know. But the Sergeant at Arms then pursued the matter.

As the news reports, and as other reports have them, physical force was used by the Sergeant at Arms, and his men entered the Chamber. Senator PACKWOOD came along until he came—well, without the details, he was carried into the Senate Chamber.

I will say this about Senator PACKWOOD: He has responded in good cheer on the matter. I would say that it was wise of Senator PACKWOOD to lighten up the matter.

It was not an easy thing for the constituents of this State of Oregon or the people of the Nation, to see Senator PACKWOOD arrested. So it is advisable to try to lighten it up.

We do know that after S. 2 is concluded, however, it comes out, that we will be in this Chamber, 100 of us, to carry on the business of the Senate, and we want to maintain civility and proper decorum and a working relationship all the way around.

Senator BYRD and I are on different sides of this issue, but tomorrow or next week we will be called upon to work together for the interest of Pennsylvania and West Virginia, where the southwestern part of my State meets the northwestern part of his State. A congenial working relationship is very important, and I commend Senator PACKWOOD for the action which he has taken.

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

Mr. SPECTER. Without the right to lose the floor, of course.

Mr. BYRD. Yes.

The Senator mentioned my name. The distinguished Senator from Pennsylvania can be assured of that congenial relationship between him and me after this battle is over, and also during the battle, as he can be sure that he is standing on this Senate floor today.

I have been around here for a long time. I have engaged in many difficult and complex debates, quite a few filibusters, and I have yet to carry any enmity in my heart toward any participant in any debate, whether on that side of the aisle or on this side of the aisle.

This bill, as I have said before, is not the alpha and the omega of our work here. I have great respect for the Senator. I have a great respect for his knowledge of the law based upon his experience, which highly qualifies him. That respect is not in any way, up to now, at least in the slightest, affected.

I reassure the Senator that our interest in working together for our respective States, and for the Nation, will not be weakened, as far as I am concerned. "Sufficient unto the day is the evil thereof."

I appreciate his yielding, and I appreciate the congeniality that does exist between us, and I appreciate the mutual repect that we have for the interests of our two States, which do adjoin.

Our interests, as elected representatives to the Senate from those two States, are often common interests, and I assure the Senator that nothing that has happened up to this point, offends my affection for him.

Mr. SPECTER. I thank the majority leader for those comments. They are reciprocated by this Senator to the majority leader, and I think it is important that those who watch the disagreements which we may have on issues of principle, on issues of procedure, not misunderstand the congeniality which is so important in this body.

I must say that aside from the good relationship which will be maintained between Senator BYRD and myself, for many reasons, including the important interests of our adjoining States, that I do have some concern for what is happening in the Senate. I am concerned that there may be some scars, if not on Senator PACKWOOD's finger, then on the Senate body policy. It is out of the concern for those scars that I am making the proposal, which I am today, that we try to improve our procedure.

When I refer to Senator PACKWOOD's good humor, which he displayed yesterday as he recounted the incident, I do so because his good humor is part of his personality, and that is a wonderful personality and is part of the approach of the Senator in the U.S. Senate. But it does not, in any way, diminish the seriousness, the importance, or the impropriety of what was done to Senator PACKWOOD personally when he was brought into this Chamber feet first, when physical force was used to bring him in, when his injuries were not major on his broken finger, but he had another x-ray.

What the majority leader says, as I believe he did, that Senator SPECTER was not affected by what happened, referring presumably to the issuance of the warrants of arrest, I would dis-

agree, again, respectfully. I was affected.

Mr. BYRD. Mr. President, would the Senator repeat that?

Mr. SPECTER. I thought I understood you to say, Senator BYRD, that Senator SPECTER was not affected by what happened, apparently referring to Senator PACKWOOD. Did I misunderstand?

Mr. BYRD. Mr. President, I will be glad to have the transcript read back, but I think the Senator will take my word for it. I have not said that.

Mr. SPECTER. I accept that.

Mr. BYRD. I did not say it, nor did I say anything anywhere like it. No such inference could possibly be drawn from anything that I said.

Mr. SPECTER. I accept that, Senator BYRD.

Mr. BYRD. I thank the Senator.

Mr. SPECTER. That is what I though I heard, but, needless to say, it was to the contrary.

Mr. President, the future conduct of the U.S. Senate for future actions here are very important to the operation of our Government for the welfare of our people, and we really have to know how we are going to proceed.

I have made the comments just articulated in response to Senator BYRD's statement that he regrets the circumstances which led to the issuance of the warrants, but he does not regret the issuance of the warrants themselves.

As I was saying, that puts the majority leader and this Senator in direct conflict in terms of what the rules of the Senate ought to be.

At the present time, we do not have rules of the Senate which establish the procedure for issuance of warrants of arrest. We have very little on the subject. There is the statement in the Constitution about compelling Members of Congress to appear under rules which they may establish. There are some statements in the rules about a motion to instruct and then a motion to compel, an intermediate step which was not taken, and the warrent procedure as established by practice, the last one having been issued and executed in 1942.

It seems to this Senator, and I have discussed this with a number of my colleagues who agree, and I believe that there is considerable sentiment on the other side of the aisle, that there ought to be standards for the issuance of warrants of arrest.

As I said at the outset, and perhaps some of my colleagues who may be listening did not hear, there was a procedure which I have studied and have been advised upon that if I choose to make a motion to reconsider the vote seeking the warrants of arrest, and if that motion to reconsider is passed, then I may make a point of order.

While the issue then is pending on the propriety of the issuance of the warrants, that for future conduct of the Senate, the warrants not be issued unless certain standards are met. That would be expected and customary practice for the issue then to be put to the Senators as to whether these standards ought to be followed.

The standards which I have articulated, which I would put at the appropriate time, are, first, there be no middle-of-the-night warrants. The reason for the change on the middle-of-the-night warrants is that there are few circumstances so extraordinary, and different rules apply even on search and seizure and no-knock provisions. Warrants issued in the middle of the night ought not to be the practice here, absent some really extraordinary circumstances.

Really, that sets the general rule for no middle-of-the-night warrants. Second, that there be compliance with the rules, that the warrants be signed by the Vice President or President pro tempore, or appropriate designees, in order to have that level of impartial review. Third, that there be a written statement justifying the reasons for the arrest. And, fourth, that there be equal treatment of Democrats or Republican Senators, or whatever party a Senator may belong to.

Because of the concern that Senator PACKWOOD was singled out and because of the concern that the warrants of arrest were destroyed by the Sergeant at Arms, in apparent violation of rule XI, and I do not attribute any deliberate wrongdoing to the Sergeant at Arms, but the rules call for the retention of those official Senate documents.

MOTION TO RECONSIDER VOTE BY WHICH SENATE ORDERED ARREST OF ABSENT SENATORS

Mr. President, accordingly, at this time, I move to reconsider the vote by which the Senate ordered the arrest of absent Senators, and I am eligible in that I did not vote on the motion. I ask for the yeas and nays.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

Mr. BYRD. I ask the Senator to put this motion in writing.

Mr. SPECTER. I will be glad to do so.

The PRESIDING OFFICER. The Senator has a right to request the motion be made in writing and submit it to the Chair.

Mr. SPECTER. One moment, Mr. President, while I, again, check the precise language.

Mr. President, before sending the motion in writing to the desk, I ask unanimous consent that a statement elaborating on certain aspects of the rules, along with attachments of the Packwood warrant and the Weicker warrant and the return of service, be printed in the RECORD at this point.

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

STATEMENT BY SENATOR SPECTER ON MOTION TO RECONSIDER ROLLCALL VOTE NO. 23

Mr. President, I move to reconsider Rollcall Vote No. 23, Congressional Record, February 23, 1988, at S1153, on the motion that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Senate Chamber.

By now, everyone has heard and reheard the sordid details of the events that took place in the early morning hours of February 24, culminating in the entry without consent into a Senator's personal office, the forcible arrest of that Senator, and the physical injury that resulted to that Senator as he was being physically compelled to return to the Senate Chamber. I was astounded, quite frankly, that members of this body would attempt to justify such conduct at all. I was even more surprised, however, that Senators would suggest that the events in question were pursuant to a valid exercise of Senate authority. The facts do not appear to be in dispute. Purporting to act pursuant to Senate rules of procedure pertaining to orders of arrest to compel attendance of absent Senators, arrest warrants were signed by the junior Senator Brock, who at that time occupied the presiding officer's chair. The Sergeant at Arms, who could not have been expected to know that such warrants were unlawful and invalid, then proceeded to act pursuant to the warrant and the above-mentioned outrageous conduct ensured.

I believe that the warrants were invalid on several grounds. First, the Sergeant at Arms does not have the authority—under any interpretation of Senate rules—to arrest absent Senators and bring them to the Chamber in the absence of a warrant of arrest. The Senate, however, never voted in favor of warrants being issued. When the majority leader made his motion for the rollcall vote, he made no mention whatsoever of warrants. His entire statement was: "Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber, and I ask for the yeas and nays on the motion."

This motion simply is not sufficient under the Senate rules to justify issuance of arrest warrants, which it nowhere refers to, and arrests could not lawfully be made without such warrants. The entire procedure was fatally flawed from the outset.

The manner in which warrants nevertheless were issued raises a number of other important questions. Many Senators obviously were absent when the Majority Leader made the motion to instruct the Sergeant at Arms to arrest the absent Senators. While at least 6 Democratic Senators were absent at the time, February 24 Associated Press report indicated only that warrants of arrest were issued for 46 Republican Senators. In response to my inquiry, the Sergeant at Arms has indicated that warrants of arrest also were issued for certain Democratic Senators, but I have not yet been apprised as to which ones. We are not likely ever to know for sure, because the Sergeant at Arms also has advised me that these warrants of arrest—official documents affixed with the seal of the United States Senate—were intentionally destroyed later in the day. Such documents should have been committed to the Senate Archives, of course, just as they have been in the past.

It is clear to me that the warrants would have been invalid even if the Majority Leader's motion had—as it did not—called for warrants to be issued, because they were not signed by a Senator duly serving as presiding officer. Rule 1 of the standing rules of the Senate, which governs "Appointment of a Senator to the Chair," is explicit: In the absence of the Vice President, "the President Pro Tempore has the right to perform the duties of the Chair." The President Pro Tempore has the right "to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair." The impact of Rule 1 is plain. The warrants in question lawfully could have been signed by the Vice President of the United States, by the senior Senator from Mississippi, or by a Senator named in open Senate or in writing to perform the duties of the Chair. It is beyond dispute that they were not so signed.

On February 23, 1988, the President pro tempore of the Senate appointed, in writing, Senator Proxmire as Acting President pro tempore. Senator Stennis' letter to the Senate read as follows:

"Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair." As is customary—but not authorized by the rules—the position of Presiding Officer was filled by various other Senators throughout the day, without any of them being named to do so in open Senate or in writing. Senator Adams was occupying the Presiding Officer's Chair at the time the arrest warrants were presented, and he signed them.

Mr. President, based on my discussions with Senator Proxmire and Senator Adams, it is clear that the arrest warrants were not signed by a Senator duly serving as presiding officer pursuant to Senate Rule 1. That they were not so signed comes as no surprise to any of us, of course, because we simply do not follow the practice of having the President pro tempore name in open Senate or in writing other Senators to perform the duty of the Chair. I have never known this to occur in my tenure in the Senate and none of my colleagues—many of whom have served much longer than I—has indicated to me that he or she can recollect this ever having occurred. To illustrate this point, I inquired on February 24 of Senator Shelby, who then was presiding over the Senate, whether he had in fact been named in open Senate or in writing to perform the duties of the Chair. He acknowledged that, of course, he had not. While some Senators have observed—correctly—that it has not been the "custom" of the Senate to follow Rule 1, this is not determinative of the issue of whether the warrants of arrest were lawfully signed. The customs and practices of the Senate, no matter how long-standing or well engrained, cannot alter explicit rules which govern the Senate. Customs and practices are relevant, in the absence of an applicable rule, as evidence of what is appropriate; they are not relevant when they flatly conflict with a valid rule which is clear on its face. No one, thus far, has questioned whether Rule 1 is such a rule—although I do not underestimate my colleagues' capacities for imaginative interpretation of written words.

This is not a trivial or unimportant matter. While it may not be essential to have the Vice President or the President pro tempore presiding over the typical discussion on the Senate floor, the execution of an arrest warrant is a matter of a significantly different nature. Article I, Section V of the U.S. Constitution authorizes each House of Congress "to compel the attendance of absent Members in such manner and under such penalties as each House may provide." Rule 1 is this body's undertaking, pursuant to that provision of the Constitution, to establish the manner in which we will issue warrants of arrest to compel attendance. While we do not frequently follow the literal command of Rule 1, we must do so in the extraordinary circumstance of issuing an arrest warrant. Our legal system recognizes the extraordinary nature of issuing an arrest warrant and the even more extraordinary nature of executing such a warrant by physical force, as was done with one of our colleagues. On February 24, yesterday, when millions of Americans opened their newspapers to read that an international terrorist may well go free because our law enforcement officers did not follow the strict mandates of the law regarding arrest procedures, we would do well to refrain from defending our own failures to follow Senate rules on the basis of customary practices.

Mr. President, in addition to all of the defects already noted, the arrest warrants also were invalid on their face. The warrants were taken from a form included in the Appendix of Senate Procedure, by Parliamentarian Emeritus Floyd Riddick, at page 1175. The form contains blanks for the date of issuance, the name of the Senator to be served, a statement of fact as to why the Senator is absent, the date when the seal of the United States Senate is affixed to the warrant, the signature of the Presiding Officer, and the signature of the Secretary of the Senate.

Numerous discrepancies appear in the various warrants issued on February 24, that I have been able to review. I suspect that those which have been destroyed bore similar defects. Senator Packwood's warrant, for example, included no statement of the alleged reason for his absence. Senator Weicker's warrant lacked not only this necessary information, but also the date of issuance. While Senator Packwood's warrant included the name of the Sergeant at Arms as is required, Senator Weicker's warrant did not. Mr. President, I submit for the Record, copies of the arrest warrants issued to Senator Packwood and Senator Weicker.

There appears also to have been confusion about who was subject to the majority leader's motion. The Sergeant at Arms informed Paul Michel, Esquire, of my staff that an arrest warrant had been issued for Senator Kennedy. The February 23 Congressional Record, however, indicates that Senator Kennedy was necessarily absent.

Mr. President, at a minimum there is a pressing need for the Senate to study the proper procedures for drafting and issuing arrest warrants to Senators, and to ensure that the Sergeant at Arms understands them. The Senate Procedures Appendix includes a return of service form (page 1175), which seems to impose a mandatory requirement that a return of service be executed by the Sergeant at Arms when a warrant is served. While there ought to have been a return of service at least for Senator Packwood's and Senator Weicker's warrants, there is not evidence that any such returns ever existed.

Mr. President, to facilitate the Senate's review of the arrest warrant procedures and forms, I submit for the Record, a copy of the return of service form.

Mr. President, it is difficult to catalogue the defects in the arrest warrants issued to Senators on February 23 because most were destroyed. Those of us who have practiced criminal law know that the appropriate procedure is that all warrants be maintained on file because disputes such as these may arise. Can any of us doubt the uproar that would arise if officials in our states were disclosed to have destroyed warrants of arrest that had been issued? Moreover, the warrants—like any official United States documents—probably should have been routinely archived. I raised this issue as a parliamentary inquiry on February 24, and look forward to the Chair's ruling regarding the preservation of such documents.

Mr. President, I am moving for reconsideration of Rollcall Vote Number 23 because of the very great importance to this institution, symbolic and otherwise, of the events precipitated by that vote. I have researched the matter in the last two days, and have found no record of a forcible arrest of a Senator pursuant to a Senate motion since 1942, when warrants were issued for the arrest of several southern Senators.

On November 4, 1942, Senator Barkley, the majority leader, after failing to gain a quorum under a motion to instruct the Sergeant at Arms to request the attendance of absent Senators, moved that the Sergeant at Arms be directed to compel the attendance of absent Senators. The motion was agreed to, and the Sergeant at Arms executed the order of the Senate.

Senator Connally of Texas, who was on the Senate floor when the motion was made, expressed his outrage at the Senate's conduct. Senator Connally stated: "I understand some things are being done, or are about to be done, in the name of the Senate, which the Senate has never authorized, and which pertain to the high privileges of the Senate. I understand that the Sergeant at Arms, under the direction of the majority leader, or someone here, is assuming the authority to deputize, or appoint as a deputy, one of the Senate custodians, with instructions to break down Senators' doors, enter their offices, and drag them out."

Senator Connally continued: "I simply want the Senate and the country to know the kind of tactics which are being forced upon Senators in the Chamber. It is a perfect outrage. It is in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate."

Subsequently, five United States Senators were arrested and brought to the Senate floor on that Saturday afternoon in 1942. On November 17, 1942, Senator McKellar, one of those arrested, was recognized and stated: "Last Saturday there occurred in the Senate a most shocking performance, the like of which has not been known, so far as I can recall, during the 26 years I have been a Member of the Senate. . . . The action taken, therefore, was unusual, quite remarkable, and unexpected." In a colloquy with Senator Smith, Senator McKellar continued: "I have never known such a thing to happen before. I think when we have had contests which were vigorous and active and, let us say more or less determined, each side would keep its own members here and maintain a quorum. . . . Has that not been the history of the Senate since the Senator from South Carolina has been here?"

Senator Smith responded: "Yes; but everything has changed now."

Mr. President, I find the McKellar incident instructive for several reasons. First it is worth noting that no such forcible arrests had occurred in the memories of those Senators, and—until February 24—none had occurred since. In the 45 years that have passed, virtually all of our current constitutional doctrine regarding warrants, arrests and seizures has developed. Suffice it to say that many practices considered lawful and appropriate in 1942 are now acknowledged to be badly unconstitutional.

Second, it is worth noting that, while our colleagues in 1942 did not have the benefit of modern constitutional doctrines, they had a healthy understanding of the need to follow the letter of the Senate rules. When the Senate passed the motion to compel attendance in 1942, the arrest warrants were signed by the Vice President (see statement of Senator McKellar, Congressional Record of November 17, 1942, at page 8905).

Third, after his arrest in 1942, Senator McKellar noted on the Senate floor that his attendance record was far superior to those of most of the senators who had voted in favor of the motion leading to his arrest. Likewise, I would note for the record that my distinguished colleague from the State of Oregon, who was forcibly arrested in his office on February 24, has an extraordinarily good attendance record and has missed far fewer rollcall votes in this Congress than a number of members who cast votes on the motion to compel which led to his arrest.

After he was forcibly returned to the Senate floor in 1942, Senator McKellar expressed his profound regret that his own colleagues would arrest, humiliate and put him in "an ignominious position merely to carry a little point." The historians tell us that Senator McKellar did not speak a word for many years to the Senator whose motion had led to his arrest.

Not only were the events of February 24 embarrassing to this body and unlawful, they similarly jeopardize the spirit of collegiality without which this body cannot function.

Accordingly, I urge my colleagues to join me in supporting this motion to reconsider Rollcall Vote No. 23.

U.S. SENATE,
Washington, DC, February 23, 1988.

To: HENRY K. GIUGNI:

Sergeant at Arms, United States Senate:

The undersigned, presiding officer of the Senate, by virtue of the power vested in me, hereby command you in pursuance of the order of the Senate, this day made, to forthwith arrest and take into custody and bring to the bar of the Senate Bob Packwood, who is absent without leave, to wit:

Hereof fail not and make due return of this warrant.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the United States Senate, this 23 day of February 1988.

BROCK ADAMS,
Presiding Officer.

U.S. SENATE,
Washington, DC, February 23, 1988.

To: HENRY K. GIUGNI:

Sergeant at Arms, United States Senate:

The undersigned, presiding officer of the Senate, by virtue of the power vested in me, hereby command you in pursuance of the order of the Senate, this day made, to forthwith arrest and take into custody and bring to the bar of the Senate L. Weicker, who is absent without leave, to wit:

Hereof fail not and make due return of this warrant.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the United States Senate, this 23 day of February 1988.

BROCK ADAMS,
Presiding Officer.

Washington DC, ———, 19——

I made service of the within warrant through my Deputy ——, by ——, the within-named ——, at —— —— at —— o'clock —— m., on the —— day of ——, 19——. *Sergeant at Arms, Senate of the United States.*

Mr. SPECTER. Mr. President, I sent the motion in writing to the desk and ask that it be made a part of the RECORD.

The PRESIDING OFFICER. The clerk will report the motion of the Senator from Pennsylvania.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] moves to reconsider the vote No. 23 by which the Senate voted the arrest of absent Senators.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this motion is not a debatable motion. Under the circumstances, I move to table the motion and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested on the motion to table. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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. BYRD. Mr. President, I ask unanimous consent—and I intend to resume the quorum call—that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, I have called the quorum off to say this only, and I ask unanimous consent that I may speak for 30 seconds.

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

Mr. BYRD. Mr. President, Senators BOREN, PELL, NUNN, WARNER, and I have an appointment with the President of the United States at 2 o'clock today. We should be on our way. This will not be a live quorum for quite a while. We intent to keep our engagement with the President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. DIXON). Is there objection? Without objection, it is so ordered.

The pending question is on agreeing to the motion to lay on the table the motion to reconsider rollcall vote No. 23, the motion to instruct the Sergeant at Arms to arrest absent Senators and bring them to the Chamber. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nevada [Mr. REID] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—47

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

NAYS—45

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

NOT VOTING—8

Biden	Gore	Reid
Chafee	Gramm	Simon
Dole	Kennedy	

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I suspect that many of my colleagues feel

as I do, a certain awkwardness or unease as we debate the campaign finance reform issue. For implicit in the criticism of the present system is the growing perception that we are, as the biting cliche goes, part of "the best Congress that money can buy."

Mr. President, whether or not one agrees with this collective indictment of the institution, an indictment that I believe is heavy on rhetoric and very light on substance, the mere appearance of impropriety or undue political influence stemming from campaign contributions is by itself sufficient justification for this debate.

Mr. EXON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator will suspend. The Senator from Nebraska is correct. The Senate is not in order. The Senate will not be able to conduct business until those Members desiring to engage in conversation retire from the Chamber.

The Senator from Maine.

Mr. COHEN. Mr. President, when a growing number of our fellow citizens lose respect and confidence in our electoral system and when over half of the eligible voters in this country feel it is not worth the time and effort to go to the polls to elect our national legislature, when more and more voters believe that money buys political access, if not an occasional vote or favor, then I think it is time to take stock of what has gone wrong.

Now, the widespread displeasure with the present system of financing of our election campaign provides us with a potentially fertile environment for putting to rest a good deal of this suspicion and for restoring pride in our electoral system.

It is an opportunity that will be lost if we allow this debate to further degenerate into a self-protective contest for partisan advantage. I think we owe ourselves and the Nation a better fate on such a critically important question.

Mr. President, a public relations campaign is being waged. It is a campaign that consists of half truths and distortions. It is being waged rather effectively, I might add, and I must say that we Republicans are on the losing side of that public relations campaign, at least temporarily.

The way in which the campaign finance reform issue is being portrayed is that Democrats are for honor, Republicans are for dishonor; Democrats are for honesty, Republicans stand for corruption.

Now, I think we have seen this kind of tactic before and we have paid a price for it, I must say, as individuals as a party trying to do what we believe is right for the country.

Let me just go back historically and give you a couple of examples. I am referring specifically to the debate surrounding the Social Security system. Back in 1981, when President Reagan first took office, he pointed to the Social Security system as being in deep financial trouble and he proposed several corrections to that system. Several of us, a number of us in the Republican Party, thought the solution that he had was wrong.

Nonetheless, we felt that he was right in drawing attention to the need to correct the deficiencies of that system. Well, we paid a price for even hinting at our support for some kind of reform of the Social Security system. Members of the Democratic Party at that time were very effective; they went on national television. They tore up Social Security cards. They said, "This is what Republicans want to do to your checks." It was unfair, but it was very effective.

And then, of course, after the elections were over, they came forward to Senator DOLE and others and said, "Look, we recognize we have a problem. Why don't we now put together a bipartisan panel and correct it." Long after the elections were over, they were willing to come forward on a bipartisan basis and put together recommendations to make the Social Security Trust Fund solvent.

So we lost that one. We lost heavily in my State. Across the board, I think across the country, Republicans suffered because of that perception that was generated by an unfair tactic.

I think we also saw it during the course of the nuclear freeze debate because the nuclear freeze was very simple, and it sounded very fair. We have enough nuclear weapons; let us just freeze it exactly where we are right now. It was very difficult to deal with that particular issue. It was difficult to deal with because it had the allure and the appeal of simplicity and equity. It was neither. And it took a lot of people on this side of the aisle to resist the temptation of succumbing to that kind of simplistic sloganeering.

I mention this today because just a few weeks ago several of my colleagues on both sides of the aisle were in Munich at a nuclear disarmament conference in which the leader of the SPD Party in West Germany said he supported the double zero option and he was glad to endorse it.

Well, let me tell you what an act of hypocrisy that was, because the SPD did not support the INF deployment. They supported the nuclear freeze at that point and, had they been successful, they would have frozen in place a great disparity with some 1,400-plus nuclear warheads targeted at Europe with zero in response targeted at the Soviet Union. It was the courage of people like Chancellor Kohl and others within West Germany and our NATO allies who resisted the temptation to succumb to tremendous public pressure to adopt a simplistic approach. As a result, we now have an INF Treaty which at least removes an entire class of missiles and purports to give us some sense of equity and stability in the deployment of nuclear weapons.

So we were faced with a campaign of distortion because of a simplistic approach. Now, I think we have been faced with a campaign of distortion once again, one that is captured on a bumper sticker which says that Democrats are for honor and honesty and Republicans, once again, are for corruption. It is a lie, and I might say a damnable lie at that, but one that is being spread across the pages of the newspapers of this country.

I have taken this floor today to take offense at this campaign of distortion. I am offended by those groups or individuals who are wrapping themselves in a flag of honor and hurling stones from glass houses and those who are masquerading as disinterested citizens victimized by the corrupt forces in our society.

I refer specifically to a couple of ads that have been running in my State's papers. One is by a group called Congress Watch. I want to cite it, to tell you the kind of practices that have been going on in the name of equity and fairness.

One of the items says that Cohen raised $1.1 million for his 1984 reelection, has become a part-time lawmaker and a full-time fundraiser who raises an average of roughly $3,500 a week for a 6-year term.

I think my attendance record compares favorably with other Senator's in the Chamber. And I make no apologies for my legislative output. Yet, this article implies that somehow I have become a part-time Senator, and I resent it.

Second, they point out that I accepted more than $410,000 in campaign funds from political action committees, mostly representing large corporations, professional and trade groups, insurance, banking, utility, and other companies. These statements imply that because, Cohen got money from Maine insurance companies, he must be in the pocket of the insurance industry. What an insidious implication. But that is not enough; they want to go further. It is not enough to say that I am in the pocket of certain industries in my own State. They want to go further and say,

> Especially disturbing are the contributions to Cohen's campaign coffers from PACs outside of Maine. Minnesota Mining and Manufacturing PAC, Delaware Valley PAC and the Massachusetts Congressional Campaign Committee PAC, to name a few, thought it in their interest to assist Cohen's re-election effort. These out-of-state gifts raise the question: is Cohen still primarily responsible to his Maine constituents?

This article was written by two people I have never heard of, who probably reside somewhere down here

in Washington, this city surrounded by marble, asking Maine citizens whether I still represent them. I resent it. These two people had never set foot in my State, to my knowledge. Later I learned that the same article had been sent to various newspapers around the country. Senator ROTH was the subject of a similar piece. Just change the name and the amounts. The identical article appeared across the country as part of a rather insidious campaign. MALCOLM WALLOP, BILL ROTH, CHICK HECHT, who else?

I resent the implication contained in that particular article.

Now I would like to turn to something else, because an advertisement has appeared in my State, not just in one newspaper, but in every daily paper in my State. I hold it up so you can see it. There is a wonderful picture of Archibald Cox, great coverage so far as my name is concerned. It says, "Won't you please stop backing the filibuster that is protecting the current corrupt campaign financing system?"

Mr. Cox goes on to say the following: "The way our congressional campaigns are financed is a national scandal. As the Washington Post has written, our congressional campaign financing system is 'fundamentally corrupt. Every citizen knows that. So does every legislator.' "

The problem I had with Mr. Cox's quotation is that it is only half a quotation, a partial quotation. I think we all know that a text torn out of context is only a pretext. We all know that from some of our past experiences in this body and elsewhere.

Let me read from an editorial written by the Washington Post. I may sound familiar:

> We continue to think that disclosure is the best way to avoid corruption in campaign financing. Political contributions are reported in great detail and publicized widely. If the voter knows that a member accepts contributions from real estate and oil interests and later supports tax laws favorable to these industries, that voter can object at the polls. Because the press and Common Cause, for example, carefully monitor and report these connections, citizens have far more information than they did 15 years ago.
>
> The prospect of the government's setting increasingly stringent limits on political spending is not in itself appealing, and this is all the more true when its benefits are apt to be so slight. The same may be said of restrictions on independent expenditures and on broadcasters' freedom. In other words, it seems to us that a complicated set of new regulations on campaign expenditures has some inherent drawbacks and won't produce a commensurate gain.
>
> If the history of campaign spending regulation has provided any lesson it is that the politicians and their legal advisers and would-be purchasers never run out of ingenious ways to turn the new regulations to their advantage. Full disclosure and vigorous debate remain the best hope for an honest process.

Why wasn't that quote in Mr. Cox's ad placed in every paper in my State? A nice piece of selective quotation from the Washington Post.

The Washington Post says it all. That was an editorial written in 1985. They gradually evolved to support the bill before us, but I would like to see a little more honest reporting by groups supporting S. 2. I think their ad is fundamentally unfair and false in trying to create the impression that I am somehow protecting a corrupt system, while those sponsoring S. 2 are wearing the badge of honor.

I have enjoyed the support of Common Cause over the years. I have supported most of their causes. I think my record in the Senate and in the House has been such that whenever I found a piece of legislation that I believed to be fair, it did not matter to me whether a Democrat sponsored it or a Republican sponsored it. I have joined with Democrats as often as I have joined with Republicans, and I have received criticism for it, as a matter of fact. But I have never hesitated in doing so. I resent the implication contained in this campaign of vilification that I am somehow supporting a corrupt system.

I have enjoyed the support of Common Cause. But if they think that I am somehow preserving a corrupt system and therefore I am corrupt, then obviously I do not deserve their support. But the corollary is also true: To the extent that they continue to support tactics like this, frankly, I do not think they are worthy of our support.

Mr. President, I have heard it said by the proponents of this bill—or some of them at least—that we must hang a sign out now that says, "The Senate is no longer up for sale." I resent the implication that somehow this institution and the House are for sale.

Who among us right here will stand up and say that he has sold his vote? To whom have you sold it? Have you sold it to the PAC's? Have you sold it to individuals? Have you sold it to the party, the Democratic Party, the Republican Party? Have you sold your ideas? Or have you sold out to your constituents? The issue is important. It makes a difference. We are living in an age of attribution, so let me attribute something to a colleague, Senator HOLLINGS. He pointed out a serious problem, one of philosophic schizophrenia—call it hypocrisy if you want.

He told a story, and I am going to read it. It is about a veteran returning from Korea, who went to college on the G.I. bill, and he bought his home with a VA loan. He started his business with an SBA loan. He got electricity from the REA and soil testing from the USDA. When the farmer became ill, the family was saved from financial ruin by Medicaid and his life was saved by a drug developed at the National Institutes of Health. His kids participated in a school lunch program. They learned physics from teachers who were trained by the National Science Foundation. They went to college with guaranteed student loans.

He drove to work on an interstate highway, moored his boat in a channel dredged by the Army Corps of Engineers.

When floods hit, he took Amtrak to Washington to apply for disaster relief. He spent sometime in the Smithsonian Museums. Then one day he wrote an angry letter, to his congressman asking the Government to get off his back, complaining about paying all those taxes for all those programs for ungrateful people.

That points out the problem that all of us have dealt with since we have been members of this institution. The problem lies not with PAC's or with individual contributions but with whether or not we are measuring up to our own responsibilities and resisting the pressures put upon all of us.

Special interest groups: I remember coming back from Maine one time on an airplane, back in the mid-1970's. As I approached the flight attendant, she said: "Congressman Cohen, are you bothered by all those special interests, those lobbyists down in Washington?"

I paused for just a second and said, "No, as a matter of fact, I'm not bothered by any lobbyists. The only people who bother me are airline attendants who are constantly lobbying me every time I get on an airplane to protect their tax-fee travel benefits."

BOB PACKWOOD and others perhaps were considering taxation at that time.

But the point was this: Every group is a special interest. Whether we are talking about farmers who want subsidies, or homeowners who want deductions for interest on mortgage payments, or businesses who want accelerated depreciation, or flight attendants who want to retain their tax-free status on travel benefits. They are all special interests. I resist the notion that somehow PAC's are inherently evil. But if that is the case, we ought to deal with that. I must tell you that the suggestion that my political future or that of my party lies in preserving the status quo, in resisting any change to the existing campaign finance system, is a falsehood, a great deception, and a disservice to all of us.

I want to point out to Mr. Cox and others that: If the Republicans wanted to preserve what Mr. Cox calls "the current corrupt campaign financing system," then we would resist lowering the amounts that PAC's can give to candidates. The fact is that we do not. The Democratic Party is opposed to reducing the amount PAC's can give to individual candidates, not the Re-

publicans. If the Republicans wanted to preserve a corrupt system, they would resist expanded public disclosure of direct donations from corporations, lobbying firms, and union treasuries to the national party committees—so-called soft money. The fact is, we do not. We are for expanded disclosure, and the Democratic Party is opposed to it. That, apparently, does not impress Mr. Cox. It does not appear in his ads.

If the Republicans wanted to preserve a corrupt system, they would resist changes in the existing law that would reduce the influence of the Washington-based lobbying community. We do not, even though that message, again, happens to be absent from Mr. Cox's paid ads.

In fact, the Republicans are just as interested as Democrats in reforms that are constitutional, that are fair, that are capable of winning broad support of the American people and compatible with maintaining a competitive two-party system in this country. We owe neither Mr. Cox nor the American public any apologies for opposing passage of S. 2, which is at best poor policy and at worst a blatant political power move that will ensure minority status for the Republican Party for the foreseeable future.

As this debate goes forward, let us also not lose sight of several factors.

Under existing law, we who run for Congress decide how much we will spend to get elected and reelected, where that money will come from, and how much time and effort we are willing to expend to raise it. No one puts a gun to our heads and says the PAC's, or the devil, or the law made me do it. Each Member can accept PAC's or reject them—set limits on spending or reject limits.

In fact, it is interesting to point out that the two cosponsors of the bill have taken a different approach. One does not accept PAC money; the other does; and they are both honorable people. But some proponents of S. 2 continue to shovel in the PAC dollars as fast as they can. As their campaign coffers fill, I am reminded of the words of St. Augustine: "Give me chastity and continence, but not just now."

By contrast, some opponents of S. 2 have never accepted a dime of PAC money. WARREN RUDMAN of New Hampshire is one. Is he corrupt because he does not support S. 2? Is he defending a corrupt system? That is the implication that is being put forward by certain advocates of S. 2. It is unfair, and it is a great insult to every one of us in this Chamber.

Mr. President, we decide how long our campaigns will be, what medium will be used to convey our message to the voters and, to a great extent, whether the political climate engendered by that message will be positive or negative.

We hire the political consultants, commission the polls, and approve the campaign literature and television spots.

Finally, we know, or should know, which contributions create potential conflicts of interest, when fundraising conflicts with our elected duties, and when overdependence on certain contributors potentially creates doubt in the minds of our constituents as to whether our judgment and integrity have been impaired or compromised.

In short, very little happens during our campaigns without our knowledge and consent. So let us abandon the popular fiction that we who compete for seats in Congress are the victims of a campaign finance system over which we have little or no control. Clearly, there are steps that each of us can take to restore that essential confidence in our electoral system in the absence of any changes in existing law.

Let me turn to the broader context that shapes this debate.

The present-day realities of campaign politics—the growing role of political action committees, independent expenditures on behalf of a candidate of cause, the decline of party control over the election process, increased reliance on radio, television and direct mail advertising, sophisticated and costly public opinion polls, a more informed electorate—have all had a hand in driving up campaign costs and shaping the campaign finance system we have today.

And to this list, let me add one other, perhaps the most important factor of all, the Constitution of the United States. Our democratic system draws its very life, its strength, its vitality, its diversity, its promise, its enduring value from this great and timeless document. The 45 words that constitute the first amendment confer upon every one of us the most fundamental rights a government can provide and guarantee its citizens—the right to freedom of speech, the right to assemble, the right to freely communicate ideas, the right to worship in our own way, and the right to petition our Government for redress of grievances.

That is the essence of representative democracy. The first amendment is every citizen's standing invitation to be heard on the public issues that capture his attention and to motivate him to action, either individually or as part of a voluntary association with others who share similar views.

There is nothing inherently sinister in such associations, and we should proceed with extreme care in regulating political expression, regardless of its source or point of view. That those of us who have accepted and fully disclosed campaign contributions from PAC's have committed no wrong, no sale of our integrity seems not to matter to those who are waging this campaign of distortion.

On the contrary, in the eyes of PAC critics, such as Common Cause, we have committed an offense worthy of moral censure, and by accepting PAC money, we have allegedly compromised our independence and integrity, we have violated the public trust, and we have placed in jeopardy our system of representative democracy. But it's selective moral outrage on the part of Common Cause and its Senate allies. It is so disturbing, and ought to be disturbing, to this Chamber.

Nowhere have I seen the organization apply the same critical standards to the sponsors of S. 2 who have already accepted contributions from PAC's well in excess of what would be allowed under S. 2. Perhaps I misjudge Common Cause, and perhaps those paid ads are being prepared as I speak.

When we speak derogatively of "special interests," and that is what this debate is all about, who are we talking about? Is the term synonymous with political abuse, as the pejorative connotation usually implies? What interests or influences are we seeking to curb that will leave us with a campaign finance system that we can be proud of?

There are a lot of other questions we have got to answer. Are Common Cause and other similar organizations "special interests." Are our constituents, individual or corporate, ever "special interests" or does the term only apply to those political forces that operate beyond the geographic boundaries of our States or congressional districts or within the boundaries of the District of Columbia?

Is it possible the term usually identifies those individuals or groups whose views are philosophically incompatible with those that we hold? Is the public interest so easily identifiable that there can be no doubt that the political activities of certain "special interests," PAC's perhaps, are so corrupting and offensive as to warrant the added restriction on their activities? Or are some PAC's good and others bad? Who decides? Or is $200,000 in PAC contributions—allowed under S. 2—soul-saving but $225,000 corrupting? Who decides whether or not one can be sold for $200,00 and not for $225,000?

Mr. President, the Boren-Byrd bill asks us to accept the premise that the present campaign finance system is in such a state of disrepair and disrepute that, first credibility and accountability can only be restored by attempting to silence certain voices in our political debate in order to enhance others; second, that confidence and trust can only be bought by using public funds to finance congressional elections; and third, that without expenditure limits tied to public financing, the cost of

electing the Congress will continue to soar to unconscionable levels.

I respect the point of view of those who have concluded that good outweighs the bad in this particular bill, even though I, after giving very thoughtful consideration, have reached a different conclusion.

I believe this bill will make it even more difficult for challengers to overcome the enormous advantages of incumbency, that its reporting and disclosure provisions are wholly inadequate and that it will only further encourage independent expenditures at the expense of electoral accountability.

Mr. President, I reject the view that ideas matter less than money in today's Congress; that compassion and concern are routinely overridden by greed and parochialism; that individually and collectively we are unable to see beyond the next election; and that I, or any other Member of this body, is sufficiently prescient to know what level of spending is right and proper for every congressional district in this country; that our shared interest in restoring credibility to our electoral process necessitates that we start down the uncertain path of public financing; and finally, that the voters of this Nation are unable to discern on their own whether the judgment, independence, and integrity of their elected officials have been compromised by the campaign activity of that individual.

The Boren-Byrd reforms, limited as they are, do not guarantee that less money will be spent on political campaigns. They will not shorten campaigns. They will not reduce the amount of time that candidates devote to fundraising. But if increased legislative accountability is the justification for adopting this bill, then we will be disappointed.

Instead of fewer PAC's, we will end up with more. Rather than checking the growth of independent political expenditures, this legislation will provide a powerful incentive to increased activity in this area.

Is it possible to legislate balance and good taste in political advertising? Can we assure that? I doubt it. But the Boren-Byrd bill believes that such an objective can be accomplished by legislation. Most importantly, if adopted, we have to ask the question, will S. 2 bring us the desired level of public confidence in the campaign finance area or will the law of unintended consequences reassert itself and overwhelm the good intentions of this bill's supporters?

Some have quickly and conveniently forgotten that the explosive growth of PAC's, the emergence of so-called hard and soft money, the practice of bundling, and other campaign finance oddities constitute the legacy of an earlier campaign reform, effort.

Will the Boren-Byrd bill breathe life into some new and even less acceptable conduit for campaign contributions? The possibility should not be lightly dismissed.

So which way do we turn? Are we chasing a demon that we will never catch up with? Are we seeking in the name of reform an unattainable ideal in a democracy that is as open and diverse as ours? Or should we simply accept the fact that special interests have always been with us, that some elected officials handle the pressure better than others, that our political system is not, and never will be as blemish free as others would like? Clearly, we can do better.

In addition to doing a vastly better job of policing our own campaigns, full disclosure of receipts and expenditures—thereby opening up the process to greater public scrutiny—is an essential ingredient of reform.

Common Cause does not recognize this. Common Cause would simply paint us all into this dark corner of corruption and let those who are supporting S. 2 walk around like Diogenes saying, "Find us an innocent man in this institution."

It is an outrage what is being done, and I resent it.

Mr. President, if reducing the role of PAC's in financing congressional campaigns is the price that we have to pay to restore public confidence in our electoral process so be it. There are plenty of Republicans, including this one, who will support such a change.

A good case can be made for raising the limits of contributions for individuals and enhancing the role of our national political parties in campaign financing. We can, and we probably should, take steps to restrict what candidates can raise in off-election years. I might point out, the accumulation of large campaign warchests by sitting Members of Congress, or those with only token opposition, has become a common practice, representing, in my view, an abuse of incumbency.

There is no one in a better position than our constituents to insist that our fundraising efforts be principally focused in our own States, and that our campaigns address their legitimate concerns.

And the media has a vital and continuing role to play in lending dignity and substance and objectivity to the electoral process. It is a role that demands great sensitivity and balance in the interest of civic responsibility.

Mr. President, there is no panacea for the present ailments that afflict our campaign finance system. There is no comprehensive solution that we can put in place that will suddenly provide absolute assurance that money will never taint the legislative process.

We cannot buy our way out of the problem by tapping the Federal Treasury, and we cannot expect others to save us from ourselves. But we can make the system better than it is today, better than the imperfect one that we have. But we have to set aside this attempt to construct a bill that enjoys the support of only one party, and we must get on with the job of passing a bipartisan piece of legislation.

There are others in the Chamber who wish to speak. I was going to go on at some length.

I ask unanimous consent that an article by Robert J. Samuelson, Washington Post, dated July 8, 1987, be included in the RECORD in full. It is a rather strong article, entitled "Why the Campaign Reform Effort is a Fraud." I think that should be included so that those who are following this debate will have the benefit of its point of view.

I would like to include an article by David Broder. Mr. Broder is one of the most perceptive and respected journalists in this country. He wrote a piece back in June 1987 called "Money and the Moralizers." Again, this was not quoted in any of the Common Cause literature, but he talks about progressivism. I will take a moment to read a section of this, if I might. He says:

> Progressivism faded as a political force 50 years ago, but it remains alive and well in American journalism and in many self-styled reform organizations. The Progressives' belief in the corrupting power of money is the assumption underlying most of the current efforts—led by Common Cause and endorsed by many leading newspapers—to cut down on contributions by interest-group political action committees, to introduce public financing of congressional campaigns and to place ceilings on overall campaign spending.
>
> Reformers and journalists tend to share that Progressive tradition. Reformers and journalists also know our influence derives from our presentation of information and ideas, not from our wealth. We may be right when we say that dollars corrupt politics while ideas enlighten it. But there is enough of a coincidence between our assets and our arguments to justify a degree of skepticism.

And Broder again saying:

> I happen to think that the rapidly rising costs of many Senate races do not justify an effort to slow down this form of political inflation, at least temporarily. I agree with Sen. David Boren (D-Okla.) that a limit on the share of the campaign budgets PACs can provide would have the healthy effect of pushing candidates to seek more individual contributions in their home states.

Here is something I think is terribly important. He said:

> But there's an excess of moralism in the Common Cause and newspaper preachings on this topic. A pluralistic society properly should allow many channels by which people can seek to influence decision-makers. And you can see more than a tinge of intellectual elitism in the notion that only the money channel corrupts.

Mr. President, I will not carry on any further. I have a lot more to say on this subject matter. I have an arti-

cle I would like to introduce by William Saxbe, a former Attorney General and a former distinguished Member of this Chamber. Another one by Mr. John Lott, which appeared last year in the Wall Street Journal. I ask that they and others be included without my taking the time to read them.

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

PAC MONEY: SOURCE OF EVIL OR SCAPEGOAT?

(By Alen Ehrenhart)

In the Congress of the 1980s, a debate about campaign finance is a debate about corruption—nothing more and nothing less.

A few weeks ago, when the Senate discussed a proposal to limit contributions from political action committees, members from both parties took turns identifying PACs and their campaign gifts as the root of modern congressional evil.

"PAC money is destroying the electoral process," said Republican Barry Goldwater of Arizona. Democrat Gary Hart of Colorado said PACs represented the "toxic waste of American politics."

There is no question that something is wrong in campaign finance. American voters ought not to feel the public office is for sale to the highest bidder, and in the current climate, many of them do. Restricting the flow of PAC money may be a reasonable way of dealing with that problem.

But is is also reasonable, as senators compete with each other to tell PAC horror stories, to wonder whether there isn't a little bit of scapegoating going on.

The last decade of congressional history has written a record of disturbing policy failures. Throughout most of the 1970s, Congress argued endlessly about how to reduce energy imports, but no action was taken and the country imported more oil—and more inflation—with each passing year.

Since 1980, there has been a bipartisan consensus that the federal deficit is out of control, and yet the deficit has grown to $200 billion. In 1985, Congress conceded its inability to solve the problem and passed legislation putting budget cuts on automatic pilot.

Given the seriousness of all this—and the rhetoric about PAC money destroying the political system—it seems fair to ask what role political action committees have played in creating our recurrent legislative paralysis.

A moment's reflection supplies the answer: hardly any role at all.

It is PAC influence that makes members unwilling to raise taxes, or trim entitlement programs, or pull the plug on federal subsidies to their states? Of course not.

It would be silly to insist that PAC money never turns the outcome of a House or Senate vote. But when it comes to crucial policy decisions—and policy failures—the source of the corruption is somewhere else.

Congress fails to solve problems because members routinely sell out to a set of interests more respectively and yet more dangerous than the PACs. They sell out to the pressures of public opinion in the places they represent.

It may seem unfair to talk of members "selling out" to the voters. They are elected, after all, to give oridinary people a voice in public policy.

But the conflict between the demands of leading people and the temptations of pandering to them has been a fact of legislative life as long as Western democracies have existed. It has been more than 200 years since Edmund Burke told his constituents that a member of Parliament owed them "not his industry only, but his judgment."

In Congress, the pendulum swings back and forth. At some moments in history, members have been crippled by slavish devotion to the prejudices of those who elected them. At other times, the desire to lead and make decisions has won out.

One has to look back only to the 1950s to find a Congress whose dominant figures felt free to make policy as they wished. Senators such as Harry F. Byrd of Virginia and congressmen such as Clarence Cannon of Missouri did what they thought was right, and depended on constituents to accept it.

Much of what they thought was right does not look very good in retrospect. The Congress of the 1950s condoned legal segregation in the South and ignored legitimate demands for some federal role in areas ranging from education to health care. Those legislators carried autonomy to a fault.

Now we have the opposite problem. Members of Congress win election through the ceaseless monitoring and cultivation of voter desire. They keep that process up once they are sworn in. It is no accident that the overwhelming majority of staff people in any congressional office work on constituent service, not legislative research.

The Congress of the 1950s failed for lack of responsiveness. The current Congress fails for an excess of responsiveness. At no point in recent times has there been so wide a gap between what members are willing to propose in private—whether it is a tax increase on one side or a reduction in Social Security benefits on the other—and what they are willing to endorse in public.

Given the way congressional careers have evolved since the 1950s, perhaps a hyper-responsive Congress is inevitable. Those who decide to run often give up many months of their time and too much of their own money for a job whose year-round responsibilities all but require them to sever any ties to private life or jobs back home. It is no surprise that people who go through a process like that emerge desperate to stay in office, and timid about saying or doing anything that might turn a fickle electorate against them.

This—not the prevalence of PAC money—is what has rendered Congress so weak in dealing with hard national problems. Corruption is the right word for it. To thunder against the evils of the PAC system is to magnify a small problem—and to ignore a huge one.

PRESSURE IS A REALITY; KNOW HOW TO HANDLE IT

(By William B. Saxbe)

MECHANICSBURG, OHIO.—Political influence is a fact of life at all levels of government. All branches, all governors, senators, prosecutors, and judges are subject to its influence every day. Some can handle it. Some can't.

When I first went to the state legislature 40 years ago, I observed that when a legislator was picked up for drunk and disorderly or some other indiscretion, his name never appeared on the docket or in the newspaper. These affairs were handled by a police lobbyist who obviously had clout with the prosecutor, the judge, and the press.

When I became attorney general of Ohio, legislators, state and local officials, and political figures trooped through the office on matters of land appropriation, law violations, employment, tax abatement, favors, and recognition, using what political influence they presumed to hold.

The classic response (seldom used unless the request was outrageous) was to rise in righteous indignation, point to the door, and denounce the caller as a scoundrel.

What usually happened was an explanation of your responsibility and an accommodation if it could be accomplished without weakening your position or strengthening theirs.

This is the maneuver that some officials can handle and some can't. The "by-the-book" official usually doesn't last long, but neither does the "soft touch" who responds readily and favorably to unfair, illegal, or against-public-interest propositions. If you can accommodate without violating your oath or weakening your responsibility, you tend to do so.

In the U.S. Senate, I discovered to my dismay that a good part of your office is devoted to running errands, doing favors, and performing social work. In other words, using your political clout.

Some of this had to do with law enforcement, much with government handouts. Just to let an agency know you were interested focused its attention wonderfully. I didn't care much for this part of the job.

I became U.S. attorney general at a time of extremely low morale in the Justice Department as a result of continued and effective political influence from the executive branch. There were strong recommendations from congressional leaders that this influence could only be stopped by making the department an independent agency of government. By the end of my term, this suggestion was no longer heard and hasn't been raised since.

I spent 30 years of elective office dodging political bullets. I am firmly convinced that an official who responds to illegal or unreasonable political pressure doesn't last long—and he shouldn't.

But all pressure is not illegal or irresponsible, and citizens expect their elected officials to advance their case. Pressure is a relative term. What is pressure to one passes unnoticed to another. Part of the job is knowing how to handle it, because it's not going to go away.

[From the Wall Street Journal, June 10, 1987]

INCUMBENTS BENEFIT IF SPENDING CAPS ARE EQUAL

(By John R. Lott, Jr.)

The record $260 million of campaign spending by the winners in last year's midterm congressional elections has sparked a movement in the Senate to reform the federal laws governing such outlays. A bill to limit total spending in congressional races, sponsored by Majority Leader Robert Byrd and Oklahoma Democrat David Boren, went before the full Senate last week, where it provoked partisan fire and threats of a long filibuster. A vote to end the filibuster was defeated yesterday.

The Democrats' spending-limit measure, if passed, would have serious side effects, at least in the form proposed. While such spending limits can prevent the wasting of resources on political "arms races," the proposal also would make it harder for challengers to overcome the advantages incumbency provides and might end up making our representatives even less responsive to voters.

Incumbents have had their names advertised in previous elections. Also, they have had free media exposure and franking privileges during their tenure. This creates a great advantage, protecting them against newcomers who are potentially more representative and efficient. Unless challengers are free to solicit substantially larger contributions than the incumbents to offset this advantage, they may have little chance to win, leaving less competent individuals in office.

Because incumbents already have these inherent advantages, any government regulation should attempt to offset this bias. For instance, if campaign expenditure limits are a good idea, they could be put at lower levels for incumbents than for challengers. For incumbents to claim that they are acting in the name of "fairness" when they are at the same time ensuring their future employment in Congress is hypocritical. It is unfair to pretend that incumbents and challengers are starting on an equal footing.

Americans' concern over the power of incumbency is nothing new. It has caused us to place limitations on the number of terms that politicians can serve (such as for the presidency and for many governorships and mayoralties). However, this is a rather blunt instrument for avoiding the problem of incumbents who are no longer effective. After all, there are some politicians who are capable of effectively representing the voters term after term.

If we were to introduce low, uniform spending limits on congressional races—not recognizing the need for challengers to be able to raise relatively large sums—we would see incumbents stay in office longer and become less responsive to voters' opinions. The immediate effect would be to lower the current expenditures of incumbents and challengers alike, while leaving the incumbents' large past investments unchanged. In the short run, such a limit can only help protect incumbents.

An analogous question arises with regard to corporations. Should the government regulate an industry so that newcomers get a "fair chance" compared with an established company that has advertised and invested in customer relations over the years?

The answer is no. But there is a fundamental difference between politicians and corporations. We do not need to limit the advertising budgets of established companies to give newcomers a chance or to accomplish efficiency in the economy: More-efficient entrepreneurs will make offers to take over a less-efficient older firm; and the highest offer will probably be accepted, since the owners realize that the value of their business, as currently run, is less than that price. Since the business can retain the name after the takeover, and most customers are unconcerned by the changed ownership, the firm's reputation is simply inherited by the new owners.

In contrast, when a popular politician becomes less effective at representing his voters, someone else cannot buy his name and reputation. While Campbell's Soup, say, can be sold to a competitor, with the customers still considering it Campbell's Soup, politicians such as Ronald Reagan cannot sell their names and faces to a better, lesser known challenger.

Transfers of political reputation occur only to a small extent, such as when a popular politician endorses a candidate or when children of a popular politician run for office. Because competing politicians are prevented from "purchasing" each other's brand name, the political arena lacks the competitive "takeover" mechanism seen in the market for goods and services.

While our political system may not work as well as the market for soup, we can at least try to make it work as fairly and efficiently as possible. It is important that we get the very best people to represent the voters at any given time, and that incumbents do not stay on merely because they are well-known. This may be even more important than keeping campaign expenditures to a minimum, and we should therefore resist the simple "remedy" of setting uniformly low ceilings for everyone.

If we do adopt ceilings, then for the sake of fairness and representatives government we should at least make the spending limit for the challenger substantially higher than that for the incumbent. Unfortunately, it is probably unrealistic politically to expect members of Congress to support a more representative system when it runs counter to their self-interest.

[From the Washington Post, Dec. 3, 1985]

PACs Reconsidered

Sen. David Boren (D-Okla.) is one of a handful of national legislators who refuse to accept PAC money. That choice is one that protects him from charges that he is unduly influenced by organized interest groups that have the ability and the resources to make large campaign contributions in order to affect legislation. His colleagues, however, have not followed his example in droves: PAC spending in federal elections has gone from $12.5 million to almost $100 million in the past 10 years.

Sen. Boren wants to put strict new limits on these political contributions, and a bill he has offered toward this end is scheduled for a Senate vote today. Believing as we do that the current system is far from perfect, we have come to believe nevertheless that further limitations on campaign spending are not the answer. We no longer believe that current law, which combines the benefits of some regulation and full disclosure, can be significantly improved by further restricting political contributions.

Unions began the PACs. For a long time they mounted the only organized efforts to collect individual campaign contributions from people with common objectives and make group gifts to political candidates. The device enabled a number of small givers to have a significant impact, and it increased the group's influence with the candidate. Now, numerous organizations from anti-abortion to anti-pollution groups organize political giving, though business interests have far outpaced all the others; these have caused the most concern because of their skewed giving to incumbents and, in particular, to members of tax-writing committees. One former government official compared the legislators raking in this money to pigs feeding at a trough.

Sen. Boren wants to put a $100,000 cap on PAC receipts by House candidates and a similar limit—varying according to the size of the state—on contestants for the Senate. He would also require broadcasters to give free time to candidates to counter expenditures by independent groups opposing them, and would bar PACs from tramsmitting "bundles" of individual checks made out to a specific candidate. This scheme would be hard to put into practice: Would there be a race to make PAC contributions before the limit was reached? Would broadcasters be reluctant to take political ads of any kind? Wouldn't thousands of lawyer-hours be spent devising new and circuitous methods to get around the regulations?

We continue to think that disclosure is the best way to avoid corruption in campaign financing. Political contributions are reported in great detail and publicized widely. If the voter knows that a member accepts contributions from real estate and oil interests and later supports tax laws favorable to these industries, that voter can object at the polls. Because the press and Common Cause, for example, carefully monitor and report these connections, citizens have far more information than they did 15 years ago.

The prospect of the government's setting increasingly stringent limits on political spending is not in itself appealing, and this is all the more true when its benefits are apt to be so slight. The same may be said of restrictions on independent expenditures and on broadcasters' freedom. In other words, it seems to us that a complicated set of new regulations on campaign expenditures has some inherent drawbacks and won't produce a commensurate gain.

If the history of campaign spending regulation has provided any lesson it is that the politicans and their legal advisers and would-be purchasers never run out of ingenious ways to turn the new regulations to their advantage. Full disclosure and vigorous debate remain the best hope for an honest process.

[From the Washington Post, Nov. 4, 1985]

Campaign Reform

For the first time since 1974 there is talk that Congress may consider bills calling for major changes in campaign finance regulation. It isn't that the current legislation was defective from the start. It's that there is a hydraulic pressure behind money in campaigns, and when the inevitable loophole is found, the money comes gushing through. Not only the Democratic Study Group but conservative senators such as David Boren and Barry Goldwater are ready to tackle the subject again.

The sense that the system needs repair is strong in a DSG study showing an increase in PAC spending and a decrease in individual contributors. Legislators are uneasy lest it seem that organized interests are buying up Congress while the more diffused intersts of ordinary voters are not being as well served. PACs gave more than $100 million to congressional candidates in 1984, up from $12.5 million in 1972.

A new Boren-Goldwater bill would limit House candidates to $100,000 and Senate candidates to limits based on the size of their state. It would lower the maximum contribution for PACs and raise it for individuals. It would bar PACs from acting as conduits for individual contributions ("bundling") and tighten limits on spending by independent campaigns.

The DSG is preparing a bill that would provide a 100 percent tax credit on contributions up to $100. The current 50 percent credit on contributions up to $50 has just been deleted by the House Ways and Means Committee from its tax bill.

These proposals are in their formative stages. Congress, as it ponders them, should keep three things in mind. First, the key to any campaign finance law is full disclosure. Ensuring full disclosure may require tightening up the soft-money loophole and prohibiting practices such as bundling.

Second, reforms should not unduly restrict the amount of money that candidates, including challengers to incumbents, can

raise. The system suffers not from a surfeit of campaigning but from a perception that the politically adept and economically interested have unfair advantages.

Third, reforms should not impinge on freedom of political expression. The argument of PAC organizers that PACs are only a vehicle for voters' self-expression is self-serving but cannot be casually dismissed. While Congress could further regulate that particular form of self-expression, it would be unwise to prohibit it altogether.

After such a long interval, Congress is wise to consider serious proposals for reform. But it should tread carefully, aware how difficult it is to anticipate all the consequences of change in the campaign finance law. The details matter.

[From the Washington Post, July 8, 1987]

WHY THE CAMPAIGN "REFORM" EFFORT IS A FRAUD

(By Robert J. Samuelson)

The Founding Fathers are growling in their graves. The Senate is now debating campaign-finance "reform": a respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, smother elections in bureaucratic rules and hurt candidates' chances of beating incumbents. It's an odd way to celebrate the Constitution's 200th birthday.

Blame that on Fred Wertheimer of Common Cause. His crusade for reform—campaign-spending restrictions and public financing—is built on half-truths. He says that campaign contributions of "special interests" have corrupted politics. They haven't. The Founding Fathers knew that special interests were inevitable. Their government of checks and balances requires compromise; competing groups check each other. The system isn't perfect, but it curbs the undue influence of campaign contributors.

Wertheimer is a genius at obscuring this. He harps on the huge rise in congressional campaign spending—up from $195 million in 1978 to $450 million in 1986—and its simplest implication: that because congressmen need more money, they're more beholden to donors. The obvious answer is to limit dependence on the donors. The logic fits popular prejudices about special interests, and most editorialists and journalists accept Common Cause's claims uncritically. They shouldn't.

For starters, money doesn't determine who wins elections. Winning candidates are often outspent. In last year's Senate election, says political scientist Michael Malbin, six of the seven Democrats who ousted incumbent Republicans were outspent by an average of about 75 percent. There are too many other influences to make money decisive: the economy, party loyalties, personalities, issues, national mood. The 1986 election results, Brooks Jackson of The Wall Street Journal wrote later, suggested "that much . . . . was spent with little practical effect."

Paradoxically, campaign reform could make it tougher for challengers to unseat incumbents. If money doesn't settle elections, serious challengers need adequate minimums to gain name recognition and project campaign themes. It's these threshold amounts that campaign reform threatens. The spending limits in the bill before the Senate are below what five of the winning Senate Democratic challengers spent. In North Carolina, Terry Sanford spent $4.17 million to beat senator James T. Broyhill. The bill would have allowed Sanford $2.95 million.

No one is smart enough to set "correct" spending limits based on population or anything else. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

Likewise, Wertheimer's assertion that campaign contributions corrupt the legislative process is similarly weak. You hear lots of talk about the dangers of political action committees (PACs). What you don't hear is:

PACs remain a minority of all contributions. In 1986 they were 21 percent for the Senate (up from 17 percent in 1984) and 34 percent for the House (level with 1984).

The diversity of the 4,157 PACs dilutes their power. There are business PACs, labor PACs, proabortion PACs, antiabortion PACs, importer PACs and protectionist PACs. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($57.5 million).

PACs give heavily to senior, powerful congressmen, who are politically secure and not easily intimidated. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions (92 percent). First elected in 1962, he won last year with 85 percent of the vote.

Of course special interests mob Congress. That's democracy. One person's special interest is another's crusade or livelihood. To be influential, people organize. As government's powers have grown, so has lobbying by affected groups: old people, farmers, doctors, teachers. The list runs on. But PACs are only a minor influence on voting. Political scientist Frank Sorauf of the University of Minnesota reports that in 1984 the average PAC contribution to House incumbents was less than one-third of 1 percent of the average congressman's total receipts. Congressmen vote according to their political views, constituents' interests, party wishes and—yes—their consciences. Special interests were supposed to block tax reform. They didn't.

About half the rise in campaign spending since 1978 reflects inflation. Much of the rest stems from the emergence of younger politicians who use expensive campaign consultants, television and direct mail. In 1984 Democratic House Speaker Thomas P. O'Neill Jr. of Massachusetts spent $213,000 winning reelection. In 1986 Democrat Joseph P. Kennedy II spent $1.8 million to win the same seat. But the expense of modern communications makes it no less vital for free speech.

That's why the Supreme Court held in 1976 that mandatory campaign-spending limits on candidates violate the First Amendment. Public financing of election spending aims to make "voluntary" limits more acceptable. But even if voluntary limits on candidates were enacted, the problem of "independent spending" remains: if I want to buy TV time to support Joe Blow, the Supreme Court says that's my right. Candidate spending limits would prompt special interests to raise independent spending. The Senate bill tries to deter this by subsidizing responses: my $10,000 praising Joe Blow would entitle his opponent to $10,000 of public money to answer me.

Suppose this were judged constitutional (unlikely), what's the point? In our diverse society, one role of politics is to allow the venting of different opinions and pent-up frustrations. Groups need to feel they can express themselves and participate without colliding with obtuse rules intended to shut them out. Our politics is open and free-wheeling. Its occasional excesses are preferable to arbitary restraints. Wertheimer's brand of reform is misconceived. The Senate would dignify the Founding Fathers by rejecting it.

[From the Washington Post, June 21, 1987]

MONEY AND THE MORALIZERS

(By David S. Broder)

I was listening to a presidential candidate—it happened to be Joe Biden, but it could have been any one of them—talk the other noon. He mentioned an all-day meeting with some economists. He repeated some of the ideas he had gotten from them. And suddenly I was reminded of a peculiar slant in the coverage of politics in this country.

Suppose Biden had said he had spent the day with his big contributors. The reporters around the table would have been scribbling notes furiously, pummeling him with questions about what these "fat-cat, special-interest" guys wanted in return. But because he was talking about idea-merchants, no one blinked an eye.

When it comes to campaigns, dollar contributions are deemed to be potentially or actually corrupting. The view is that they need to be limited—as the Senate is again struggling to do—or at least made subject to strict rules of disclosure.

But no such taint attaches to other vital campaign ingredients, notably manpower and ideas. People who make their contributions by volunteering to walk a precinct or, as with Biden's group and its counterparts, by offering to write a position paper or conduct a briefing for a candidate, are deemed to be performing a generous act of good citizenship.

Why is it dangerous to contribute dollars, but not to contribute labor or thoughts? The answer has to lie in the eye of the beholder.

When it comes to influence on policy, few would seriously maintain that a $1,000 contributor exerts more leverage than the person who drafts a speech for a contender or gives him his briefing on trade policy or the Persian Gulf.

But the people who write about politics—like myself—are far closer in spirit to the briefers and the ghost writers than we are to the big contributors. So when organizations like Common Cause, which provides the lobbying muscle behind the recurrent drive for "campaign reform" sound the alarm, we in the press tend to respond.

Frank J. Sorauf, a professor at the University of Minnesota, has just demonstrated that point nicely in an article in Political Science Quarterly. He analyzes news coverage, not editorials, on three recent campaign-finance developments in The New York Times, Los Angeles Times and The Washington Post.

In every instance, he makes a convincing case that the coverage reflected, not a partisan or an ideological bias, but a particular strain of American thought: the Progressive tradition, which was a powerful force in our politics from the 1890s to the 1920s. The Progressives, political scientist Austin Ranney once wrote, believed that "the great enemies of society are the big political machines, the business trusts, and the other special interests that try to advance their

selfish goals at the public's expense by buying elections and corrupting public officials."

Progressivism faded as a political force 50 years ago, but it remains alive and well in American journalism and in many self-styled reform organizations. The Progressives' belief in the corrupting power of money is the assumption underlying most of the current efforts—led by Common Cause and endorsed by many leading newspapers—to cut down on contributions by interest-group political action committees, to introduce public financing of congressional campaigns and to place ceilings on overall campaign spending.

Reformers and journalists tend to share that Progressive tradition. Reformers and journalists also know our influence and derives from our presentation of information and ideas, not from our wealth. We may be right when we say that dollars corrupt politics while ideas enlighten it. But there is enough of a coincidence between our assets and our arguments to justify a degree of skepticism.

I happen to think that the rapidly rising costs of many Senate races do justify an effort to slow down this form of political inflation, at least temporarily. I agree with Sen. David Boren (D-Okla.) that a limit on the share of the campaign budgets PACs can provide would have the healthy effect of pushing candidates to seek more individual contributions in their home states.

But there's an excess of moralism in the Common Cause and newspaper preachings on this topic. A pluralistic society properly should allow many channels by which people can seek to influence decision-makers. And you can see more than a tinge of intellectual elitism in the notion that only the money channel corrupts.

Mr. COHEN. Mr. President, if it is a question of PAC's being perceived as an evil in our campaign financing system, then I say let us do away with them. Let us just prohibit any further PAC contributions to our campaigns.

I am prepared to do that today and have been in the past.

If PAC's are, in fact, the evil that they are perceived to be, let us stop allowing them to contribute to our national parties. Let us just put a stop to this and say, "No, no more contributions."

I want to know why is it that our position is not presented by Common Cause and in other publications to show that Republicans support reform, too.

It is, I think, a sad commentary that we are the subjects of a campaign of distortion, a campaign of half truths, a campaign of absolute lies.

There are reasonable differences in this Chamber on this issue. Just today Common Cause put out a press release to the wire services quoting the text of a telegram. I will see if I can find it before I conclude. In essence, it said:

Senator COHEN. "Stop defending corruptions in Washington". There is no justifiable reason for you to hold Congress and the country hostage to the corrupt Congressional Campaign Finance System.

Senator Cohen, you owe it to the citizens of Maine to allow the Senate to act on S. 2 and to clean up the terrible ethics mess in the Senate.

The implication, of course, is that I am defending corruption.

Well, that went out to the wire services and is on the wires today. I just want to say that I resent the tactic. I think that this particular debate we are having is a good way to see if we can agree on reform acceptable to both parties. If we succeed you will see me lending my support to that. But I will not succumb to an intimidation campaign. I am prepared to take my record to my people and let them judge what they think. I know of no vote or action that I have taken in the course of 16 years of service that was a consequence of a contribution or was a dereliction of my duty. I am prepared to take that to my people in Maine.

Mr. McCONNELL. Will the Senator yield?

Mr. COHEN. I yield.

Mr. BYRD. The Senator can only yield for a question.

Mr. McCONNELL. I wanted to make a 30-second observation about the Senator's speech, but I will have to make it at another time.

Mr. BYRD. I have no objection to the Senator making a 30-second observation on the speech. But I have been waiting and I want to make some comments. I have been waiting. I understood that Senator COHEN wanted to speak so I suggested that he seek recognition. I know the Senator wants to be fair. I do not object to the Senator taking the 30 seconds, but I would like to get 5 minutes at some point. I have no objection.

Mr. McCONNELL. I thank the majority leader.

As the manager of opposition to this measure, I have listened to a lot of speeches over the last 10 months, some of which have gone on for hours. I want to say to my friend from Maine that was a truly brilliant discourse on this most important issue. I thank him.

Mr. COHEN. I thank the Senator.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I want to add my voice complimenting the Senator from Maine who has, in my judgment, delivered one of the most eloquent speeches that I have heard on the Senate floor for many a year. I think he has summed up the case in a very complete manner. I must say that I compliment him. I think it is one of the finest speeches I have heard on the floor of the U.S. Senate. I hope other Members of this body will take the time to read it. I will certainly see that it is reprinted and sent to many friends and opponents of this piece of legislation because I think it says it all.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the Senator from Maine has sat down, therefore yielding the floor.

Mr. DOMENICI. Will the Senator permit me for no longer than 30 seconds to address the same issue while the Senator from Maine is here?

Mr. BYRD. Mr. President, I yield to the Senator from New Mexico for that purpose.

Mr. DOMENICI. May I say to my friend from Maine, I just want to thank you. I think you have done the Senate a service. Most of all, I want to say that knowing what you stand for and what you are, you did right today, exactly what was right, because some groups thought to intimidate you with falsehoods, with half-truths.

I think you showed the absolute best of the traditions of this Senate in coming here to the floor, standing up to it, and in a remarkable way, justifying the position you were taking in the Senate and on the Senate floor, and that we have been taking.

I thank you for that and for all of us who do not believe there is only one way to enhance better campaigns, and that that is a bill that Common Cause supports called S. 2. Thank you very much.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Maine, I do not think anyone could believe that the Senator from Maine is corrupt. I certainly would not believe it. I have the very highest regard for the Senator from Maine, and I have said so before. He is a man of courage. I have seen him take a stand on his own side that was not partisan when he could easily have been partisan.

I hope he does not concern himself too much about the implications that he is a corrupt individual simply because he is opposed to this bill. I do not believe that. There is not a Senator in this body who would think that of him.

Many of us on this side of the aisle have been the targets of ads, ads by the conservative caucus, NCPAC, and various other organizations at one time or another. So this is not a one-way street. In this particular instance, I can understand the umbrage of the distinguished Senator from Maine. But I think what we have to keep in mind here is the real issue—not a campaign of a particular organization, Common Cause or any other organization. That is not the central issue here in this debate.

Many of us take umbrage against things that have been said against us. But I think we all understand we can expect that from time to time.

That ad did not, in my judgment, influence anyone, and would not influence anyone, that the Senator from Maine is corrupt because he is opposed

to this bill. I respect him for his opposition.

Mr. COHEN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. COHEN. The telegram reads:

Common Cause press release on telegram sent to Bill today:

"Senator Cohen, stop defending corruption in Washington. There is no justifiable reason for you to hold Congress and the country hostage to the corrupt congressional campaign finance system. Sen. Cohen, you owe it to the citizens of Maine to allow the Senate to act on S. 2 and to clean up the terrible ethics mess in the Senate."

That is a statement which to me has to be one of the most despicable tactics I have seen in 16 years, when it says that the Senate is corrupt, when it says the system is corrupt, and S. 2 will cure the corruption.

"You do not support S. 2, therefore you are corrupt."

That is a kind of smear tactic. The claim of the organization is that it is disinterested.

Mr. BYRD. I understand the Senator's strong feeling and I can understand his taking umbrage. The majority leader of the U.S. Senate, who does not get many plaudits from that side of the aisle, stands and, of his own free will, states that he has complete faith in the Senator's honesty, his integrity, his character, his courage. I say that directly and forthrightly.

I did not have to say that. I am not seeking plaudits from those on the other side who from time to time like to castigate me. But I say that without any hesitancy.

I will yield to the distinguished Senator from Oklahoma.

Mr. BOREN. I thank the leader. I simply want to add my voice as another principal author of this legislation to what has just been said by the majority leader. It is my privilege to work with Senator COHEN day in and day out. He serves as the vice chairman of the Intelligence Committee and I serve as the chairman. There are many people of integrity in this body, many people for whom I have great respect, who are sincerely devoted to this country. But let me say there are not any in this body who exceeds, in my opinion, the integrity and patriotism demonstrated by my colleague from Maine. I am in position to view that day in and day out.

Let me just say that I personally disassociate myself from any kind of implication that anyone has made that Senator COHEN would ever intentionally defend corruption in any manner whatsoever.

It is an unfortunate statement. I want to personally disassociate myself from it.

I have strong feelings about this issue before us. I have tried to convince the Senator from Maine before and I will continue, being from the southern tradition to seek that one more time in hopes that he would see this issue as I do.

Many of us are sincerely convinced that we must find a way to wring as much money out of politics as we can to prevent the expenditures for growing.

I have never heard anyone question the integrity of the Senator from Maine. Certainly, this Senator would be the first to jump on his feet to invite anyone to settle that kind of accusation in any manner this Senator could settle it, if they ever had that to say about my good friend from Maine.

I think it is unfortunate that this has been worded in this fashion. I want to publicly disassociate myself from it.

It is an important issue. It is an important issue for the country. I hope that we can focus attention in the debate on the merits of the case before us, on the issues before us.

As I said last night, this is not a matter of how much sleep people get or what is said in newspaper advertisements or anything else. It is a matter of importance to the country, to the future of the country. I hope we will find a way before all of this is over to come together and do something to improve the current system, and I know the Senator from Maine also feels like that.

I would be remiss, after having the privilege of working with the Senator from Maine day in and day out, if I did not express myself on this point.

I thank the majority leader for yielding. I know he shares my view as an individual Senator.

Mr. BYRD. I thank the Senator.

Mr. COHEN. Mr. President, I want to thank my colleagues from Oklahoma for his kind words. The point I was trying to make was that this kind of an ad could be placed against the Senator from Wyoming, against the people in Nevada, South Dakota, across this country.

Frankly, what is troubling to me is that all of us are inundated by "special interests." There are special interests in this country.

But if PAC's are the problem, we can eliminate them, if they are so powerful that we do not have tax reform legislation, for example. Somehow we have allowed ourselves to accept the position that PAC's are the cause of evil which has given credence to the sort of tactic that says that those who are in opposition to this particular formulation of campaign reform somehow are those who wish to preserve a corrupt system. The implication, therefore is that we are corrupt.

I resent on behalf of my colleague from Wyoming as much as for myself or my colleagues from South Dakota or Nevada or in whatever State this is being run.

I had somewhat of a deja vu experience this noontime because I have always had enormous respect for Mr. Cox. I had lunch today with Elliott Richardson. We went back to the Watergate time of the firing of Mr. Cox and the resignation of Mr. Richardson. I was somewhat moved by the notion that somehow I had to come to the floor and strenuously object to the type of tactic employed by Mr. Cox.

I thank the distinguished Senator, the majority leader, for his comments. He did not have to say them, though I appreciate them. They were not for me, of course, but for all my colleagues.

Mr. BYRD. Mr. President, I was not asked to say it but I felt I had to say it because I wanted to say it.

I disassociate myself also from what the Senator has just read, as did the Senator from Oklahoma, the chief sponsor of this legislation.

Having said that, I want to thank Common Cause and any other organization that supports this legislation.

I do not approve of any effort to impugn the integrity of any individual Senator or imply that he is corrupt because he is opposed to this bill. There should not be any such inference drawn from his opposition. I regret that such as the case.

Mr. BOSCHWITZ. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. BOSCHWITZ. Do you think, Mr. Majority Leader, that the press release that was put out by Common Cause casts that kind of light of corruption on the Senators? I have received similar telegrams. I am not sure a press release was put out in my State. Perhaps there was.

Do you believe that the press release that the Senator from Maine read did or did not cast some light of corruption?

Mr. BYRD. Mr. BOSCHWITZ, I have already stated as to how I feel about Mr. COHEN. I think I stated it rather plainly. The senior Senator from Montana, I understand, has an ad put out by a conservative caucus at one time targeting him. I deplore all such ads from which hurtful inferences may be drawn about the character and integrity, the honesty and patriotism, of any Senator, whether he is a Democrat or Republican.

I do not approve of it. I hope that the campaign that is going to be waged against me this fall by the Republican candidate—who was encouraged to run against me by the distinguished Senator from Minnesota, Mr. BOSCHWITZ, according to news reports—will be a clean campaign, and I hope that I will not again be the target of the kind of attacks that I endured in 1982 when that lousy outfit, NCPAC, came into West Virginia and attacked me scurrilously, distorted by voting record, and spend around $270,000 trying to defeat me.

I do compliment Common Cause for supporting what I conceive to be a good government bill. On the other hand, I do not countenance any actions, words, advertisements, or whatever, that in any way impugn a Senator's integrity, his honesty, his patriotism, simply because he opposes this bill. I respect Senators who oppose it, although I believe they are wrong in opposing the bill.

I hope that answers the Senator's question.

Mr. BOSCHWITZ. I ask the majority leader, may I comment on that?

Mr. BYRD. Yes.

Mr. BOSCHWITZ. I have some familiarity with the campaign that was waged against the Senator from West Virginia last time. I was not involved in that campaign or the committee at that time. It worked to the disadvantage certainly of the Senator's opponent, as it should have, and I must tell the distinguished majority leader that I have told NCPAC, when they want to come into my State, they should stay out.

I have spoken out against the tactics of NCPAC and have often said that they were perhaps the leader and perhaps the originator of some of the negativeness that has arisen in campaigns today.

This release and these ads on the part of Common Cause, which certainly has a right to speak up about this issue or any issue they choose to, I think are as heinous and as inappropriate as some of the works I have seen by NCPAC, and I again say that the Senator from Maine has not only directed his comments against those ads or against the actions of Common Cause as they apply to him and to others on this side of the aisle, but has directed his comments to all of the elements of S. 2 and I think has done so just brilliantly.

I thank the Senator for allowing those comments.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I wish that I had had such rejections of the obnoxious tactics and ads by NCPAC used against me in 1982, I wish I had heard those same rejections, from the other side of the aisle of such tactics in 1982. I spoke about it on the floor at that time. But I am pleased that the Senator rejects NCPAC in his own State at least.

Now, Mr. President, I think we are changing the subject again. The real problem is the perception of big money in politics, and we have to address that perception, or the trust in all of us will suffer. It is a system that is corruptive. That is just what we have been hearing. It is a system that is corruptive.

That is not to imply that any Senator who opposes this bill is corrupt, but the system is corruptive. And that is what we are trying to correct here. The system is corruptive, and the perception of Senators and House Members who have to raise funds in order to stay in public service and, in doing so, have to live by the rules of the current system, the perception by the voters can rightly become one that beholds us all as corrupt—all of us.

Politicians have a bad name. Politics has a bad name. And this system only adds to that unfortunate perception of politics and politicians.

I take offense at that. I take offense at this system, but we have to live by it until it is changed.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. BYRD. Yes. I will be happy to yield. But first, my distinguished friend from Oklahoma wants me to yield.

Mr. BOREN. I was going to ask a question of the majority leader. Is it not true that one of the reasons why we are pushing this bill so hard is because we are concerned that when Senators, as known by the people of this country, have to raise campaign contributions an average of $10,000 every single week for 6 weeks, to raise a sufficient amount to run for reelection, and when it is known that more and more of that is coming from groups that rate us on how we vote on their own special interest economic legislation, that is causing the kind of disillusionment and the kind of appearance of corruption and wrongdoing that disillusions people about their own government? Is that not one of the very reasons why we are working heart and soul to try to get some limits on the amount that can be spent in campaigns so we will not be put in this position of appearing to compromise ourselves by going out in this endless search for money, money, and more money? Is that not one of the very reasons why we are doing that?

Mr. BYRD. It is. Exactly, it is. And it is not just Common Cause that may have the wrong perception; I think we ought to understand that the perception of the average voter is going to be that this Senator, that Senator, and every other Senator are all corrupt because we have to spend so much of our time running around the country with our hand out asking for money for our own election campaigns.

How can any individual in this country be blamed for having a perception that we are all corrupt? It is a corruptive system that creates such a perception.

One should not have to go around all the time proving his honesty. That ought to be a given. But the system is corrupt, and we who support this bill are trying to change it. Common Cause is trying to change it.

Now, Mr. President, let me get back to the vote we had a little while ago. I intended to speak immediately following that rollcall vote, but I wanted the Senator from Maine to first have an opportunity to speak. I knew that he was greatly offended and I wanted him to have that opportunity to speak first.

Mr. DOMENICI. Mr. President, before the majority leader proceeds with what he wants to do, could I inquire of him, we have no right to a schedule at all because we are in a situation where the Senator has the floor and obviously I am not entitled to it for awhile, but we sort of had a schedule, not knowing that the Senator desired to speak this evening on this issue and obviously the Senator did not know he was going to. I wonder if the Senator might tell us how long it would be. I think we are going out at 6, are we not?

Mr. BYRD. Mr. President, I said yesterday that we would go out, hopefully, by 5 or 6 o'clock, barring some unforeseen happening here or some unforeseen development. I intend to speak, say, 5 minutes, and I still hope to go out by 5 or 6 o'clock.

Mr. DOMENICI. I thank the distinguished majority leader.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I want to get back to the vote. I am glad that the Senate rejected the motion to reconsider the vote on the arrest order by supporting my motion to table that motion to reconsider.

What we saw, with all due respects, was a red herring to distract the public's attention from the real issue—campaign finance reform. That has been the issue and it will continue to be the issue until it is one day resolved.

Running from the issue will not make it go away. We should squarely face up to it. There have been a lot of speeches in the last day about the tactics of yesterday and the day before that and yesteryear and all these things. That sideshow is shifting the attention away from the real issue of campaign finance reform.

Let me also say that whatever happens on this particular bill, Senators should not assume that we are through with the issue of spending limits. Senators cannot run from this issue. They cannot hide from it. It is there and it will be addressed.

There has been quite a lot of attention focused on some of the tactics that have been used in the course of these last 2 or 3 days.

I think we ought to get the focus back on the main issue, on the central issue, and the central issue is campaign financing reform.

Mr. President, the Washington Post story concerning the arrest of Mr. PACKWOOD appeared today, and it was referred to earlier by another Senator.

The Washington Post has been a supporter in its editorials of S. 2, a strong supporter. So has the New York Times.

With particular reference to what happened the other night in connection with the arrest, I have an editorial in my hand that was in today's New York Times titled "Reformbusters in the Senate." I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BYRD. Mr. President, this filibuster should not obstruct the central issue of the debate. The little guy is being pushed out of our political system. The Senate should not be an aristocracy of the money bag. Campaign financing reform will give the little guy an equal share.

We Democrats have been ready to vote on the substance of the bill. It provides a voluntary checkoff system and an overall spending limit, and we have waited and waited for over a year to vote on the substance of it.

This business of the "golden handshake"—no one likes it. Senators do not want to spend all their time raising money. They do not want to be beholden to special interests, going from fundraiser to fundraiser, with their hands out, begging for money. It is demeaning.

Some have said, with reference to the arrest order, that it was demeaning. What is really demeaning is this issue we are discussing—the money chase. If that is not demeaning, I do not know what is demeaning.

It is demeaning for me to have to go around the country and raise increasing amounts of money for the purpose of staying in public service. That is demeaning. And it is demeaning to every other Senator.

The people did not elect me to do that. They elected me to do the work of a Senator. But, more and more, it is consuming my time and every other Senator's time. That is what is demeaning. That is what we are trying to get away from by enacting S. 2.

I have said that I regret having had to make the motion to order the arrest of absent Senators and bring them to this Chamber. Now we hear all of this crying, weeping, gnashing of teeth.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Let me finish my thought; then I will yield.

They sound like a bunch of crybabies. We are all adults. We all know what we are sent here for. We are sent here to work and to conduct the business of the Senate, the business of the people.

Some of us believe strongly in the bill that is before us. I know that it has been said here by some Senators that they do not have to be lectured on what their duty is. Nobody is attempting to lecture Senators on their duty. I do not have to be lectured on my duty, either, as majority leader of the Senate, but I have been listening to a lot of advice on it from the other side of the aisle.

That whole episode was demeaning, and I acted as I did because I was forced to do it, to get a majority of the Senate present, so that the Senate could do its business. This Senate cannot operate without a quorum. A quorum is 51 Senators out of the 100.

Every legislative body has to be able to produce a quorum, else all business will come to a halt. It is the responsibility of a majority to produce a quorum if a quorum is shown to be not present. And that responsibility is shared by the minority. The Constitution of the United States vests this body with the authority to compel absent Senators to come to the Chamber. The rule of the Senate, rule VI, provides for the compelling of Senators to attend in order to secure a quorum, because without a quorum, this legislative body cannot do any business. The Senate rule provides the authority. But the higher authority is the Constitution of the United States, the organic instrument that created this institution of which we are Members. I will read from it, article I, section 5:

> Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members, and a Majority of each shall constitute a Quorum—
>
> Fifty-one here—
>
> to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

So there is the full force of authority that is required for this legislative body to function. And the order for arrest springs from that authority.

When a legislative body cannot or will not compel the attendance of Senators, then it cannot enforce the requirement of a quorum, without which there can be no business transacted. When there is no quorum, all the Senate can do is take action to get a quorum or adjourn—or recess, if a previous order to recess has been given. That is fundamental to the very being of this body.

So regarding all of this weeping and crying like a bunch of crybabies who brought it upon themselves—it was a calculated decision. We heard that stated today from Senators on the other side—that they decided that they would resort to deliberately staying away to prevent establishment of a quorum. They were flying in the face of the Constitution of the United States, which created this body.

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

Mr. BYRD. That was a calculated decision.

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

Mr. BYRD. I will yield shortly, but I am going to finish my statement.

After all, there has been a big deal made out of this business of the majority leader's motion that Senators be arrested and brought to the Chamber. Now, I shall have my say. I do not intend to keep the Senate long on this subject. But this majority leader intends to do his duty, and I did my duty.

Senators made a calculated decision to not let the Senate establish a quorum. Senators on this side had 50 bodies that night. If not for one Senator on the other side, the distinguished acting leader, we would not have had a quorum of 51 Senators.

How demeaning can we get, when grownup men who understand their responsibilities as Senators make a calculated decision that they will stay away from the Senate when there is a vote going on to establish a quorum! Then, they take umbrage at a motion to arrest absent Senators and bring them to the Chamber. They understood what they were doing, and I understood what we were doing. Demeaning? Senators running when they saw the Sergeant at Arms approaching? Barricading themselves in offices? Placing chairs against the doors? Locking themselves in? How demeaning is that picture of Senators?

Mr. President, I moved on one occasion before, in 1976, that there be an order for the arrest of Senators. On that occasion, the Senators who had avoided the quorum came to the Senate before the order had to be executed. First there was the order to request. They did not come. Then I believe on that occasion there was the order to compel. They did not come. Then I moved for the order of the Senate to arrest Senators. They came voluntarily.

I might not like it because the Senate votes to arrest Senators, but I will be here to cast my vote against it if I do not like it. If the Senate enters an order to arrest Senators, you will not catch me running in the other direction.

You will not catch me running in the other direction. I will run in this direction. Here is where my duty lies.

Mr. President, a great deal has been said about that arrest order and written about it. Of course, every attempt has been made to make it the central issue, to make it the focus of attention. But the real center stage is the issue that is responded to in S. 2. And that is a clean, good-government issue.

The Democrats have been ready to vote on the bill and on the pending

amendments, and we are ready to vote now. But our Republican friends across the aisle have not wanted to vote. They have not dared to vote on the bill or on the pending question. They are waiting for the cloture vote on tomorrow.

I do not question any Senator's opposition to the bill. He has many appropriate ways of registering that opposition. He can speak against the bill, he can vote against the bill, and I have offered time and time again to see if we could work out a time agreement, which would allow for other amendments—which would not be, otherwise, allowed, if cloture were invoked—to be in order after cloture. And I still stand ready and still make that offer if cloture were to be invoked, as long as they are not the kind of nongermane amendments which have been positioned in one of the parliamentary lines to the bill.

So we could have votes on germane, relative amendments. I will be happy to sit down and try to work out an agreement that will provide for such amendments, provide for a final vote on the committee substitute, and meet the issues up and down.

As far as I am concerned, I will be happy to agree to give Senators an up and down vote on their amendments. Not tabling motion, provided there is an overall agreement to wrap up a final vote on the bill and the amendments thereto.

If the opponents really want to have a vote on their amendments, they could do so, in a time agreement that allows for a final vote on the bill also.

So they can vote, they can speak, and they can register their opposition to this bill, and they can vote against cloture, and they can defeat cloture. So there are many ways in which Senators can oppose this bill and defeat it.

I must say, however, that to resort to boycotting the vote and attempt to prevent the Senate from establishing a quorum to do business was an act of very bad judgment.

That extreme action was not necessary to defeat this bill. I had no doubt as to where my duty lay in that instance, and I had no hesitancy to do my duty. I did it then, as I saw what my duty was, and I shall do it again if the circumstances, in my judgment, ever require it.

At any time I do something that I think is wrong, I will be the first to go to any Senator, if I have wronged him, and say that I was wrong. But I am willing to stand before any audience, anywhere, any group of Senators in either party, anytime, and I can defend my action in the arrest matter. I do not need anybody else to defend me, because what I did was right.

Mr. NICKLES addressed the Chair.

Mr. SARBANES. Will the majority leader yield?

Mr. BYRD. Yes, I yield. Would the Senator allow me, the Senator from Oklahoma did ask me to yield earlier. I will be happy to yield to him and then to the Senator from Maryland.

Mr. NICKLES. I might ask the majority leader a question. Some of us have been waiting for some time. I know the majority leader earlier had indicated we would be leaving, trying to get out by 6 o'clock. There are a number of people wishing to speak. Is that still the majority leader's intention?

Mr. BYRD. It is my intention to stay here as long as Senators want to speak.

Mr. NICKLES. I appreciate the majority leader's response to that question.

The question I want to ask in regard to filibuster, you mentioned the idea of compelling Senators was something that has been done before. It has been done in 1976. It is the first time in my 8 years in the Senate that it has been done that I can recall. I was going to——

Mr. BYRD. Well, 1976 was more than 8 years ago.

Mr. NICKLES. That is correct. The majority leader was in the Senate prior to 1976. He has a great deal of seniority in the Senate. He was also involved in previous filibusters, historic filibusters, the civil Rights Act of 1964, and others.

Did they employ a tactic that I understand is a tactic that was used before in disallowing a quorum, if possible, back in filibusters in the 1960's?

Mr. BYRD. Mr. President, I do not recall any occasion in the 1960's when a political party in the Senate decided to stay away to prevent a quorum in the Senate.

Mr. NICKLES. Not——

Mr. BYRD. Now, I am answering the question, and then I will be glad to take another question. I am attempting to answer the Senator's question. I do not remember that either political party in the Senate during the 1960's or since made a calculated decision to the effect that only one Senator in that party would answer the call for a quorum of the Senate, previous to this occurence. That is No. 1.

No. 2, the filibusters in the Senate in the 1960's were conducted mostly around the civil rights issue. And I was one who participated in the 1964 filibuster. I voted against the 1964 civil rights bill. I think I voted for the 1958 civil rights bill, the 1960 civil rights bill, the 1962 civil rights bill—I think that dealt with the poll tax.

I voted against the 1964 civil rights bill, explaining my reasons and have, upon several occasions since, stated that had I to do it over again, I would vote for it. I wish I had voted for it. I have my own personal reasons for my change of heart that I do not need to relate here, and they are very, very personal. They have something to do with this wonderful happiness of having grandchildren.

Senator Russell was the leader of that Southern bloc, and those Southern Senators took the floor. They did not run and hide. They took the floor and they spoke, and their speeches were germane to the subject, and they were well organized. They took their turns. Why, Senator Russell would have been ashamed if his group of Senators had they made a decision or had they even suggested that they go to their offices and with an order for an arrest out, "lock your doors, barricade them and do not go."

Mr. NICKLES. Will the Senator yield for a further question?

Mr. BYRD. I am completing the answer to the Senator's question. The answer is that that tactic was never employed by that Southern bloc of Senators, joined in by a few Senators from other regions of the country. Now, I hope I have answered that question.

Mr. NICKLES. I appreciate it. One final question. Has the majority leader participated, seen or witnessed on both sides of the issue—and this Senator in my short tenure of 8 years, I have seen and participated in filibusters, and a lot of different tactics have been used. Can you recall in previous filibusters where a minority had elected to deny the majority potentially a quorum as one of the tactics used in the filibuster?

Mr. BYRD. I never recall any minority going to the extent that the opposition did in this instance. That is what brought about the order for the arrest.

If we are going to talk about the sideshow, there were a number of occasions this week when the minority did not do very much to help us get a quorum. They voted against the motion. Time after time, I had to move to instruct the Sergeant at Arms to request the attendance of absent Senators. A great number of Senators on the other side voted against that motion each time it was made. They voted against getting a quorum.

That was all right. But when it came to just deliberately staying away as a party and not coming to the Chamber to even vote against the motion, that is quite a different matter.

If they had come and voted down the motion, then all I could have done would have been to have gone out for the night. They have that right to come and vote against a motion to instruct the Sergeant at Arms. And if a majority of the Senate votes down that motion, then all I can do is move that the Senate adjourn, and the next morning I could come in and complain about Senators not helping to get a quorum, but here we had no Senators on the other side casting a vote on

that motion. Only one Senator on the other side was here, and there was a calculated, willful decision that everybody stay away; just leave one Senator out there so that the Chair cannot put the question.

That is what we are talking about. That is the kind of conduct with which I had to deal.

I have been listening to all of this cry-baby stuff since, and all of this business about how we have to "save the Senate."

It is a remarkable thing to me that there are many Senators who come here and want to save the Senate—and they have not been here very long, in many instances. I admire them and respect them for wanting to improve the operations of this Senate.

How many of those Senators who want to "save" the Senate showed up that night and voted on that motion? We cannot have it both ways.

A good many Senators have been quite liberal in their criticism of the majority leader for having made the motion. But the majority leader knows what his duty is, and the majority leader will abide by that Constitution without failure and by the Rules of the Senate without failure.

I do not have any regret whatsoever in what I did. I only regret that I had to do it.

When a majority leader quails in the face of criticism when he has done his duty, then he ought to take a seat and say he is no longer the majority leader.

I do not take any pride in staying here all night. I did not like it on Tuesday night. I got 3 hours of sleep. There may be some who got less. But this was a calculated effort to obstruct this Senate from doing its work, because it cannot do its work without a quorum. When a party, a majority party, in this Senate, be it Republican or Democrat, does not show the fortitude and the backbone and the steel and the guts to take whatever action is necessary under that Constitution and the Rules of the Senate—whatever action is authorized under the Constitution and in that rulebook—whenever that majority party quails or shrinks from that duty to establish a quorum, then that party forfeits its right to be the majority party.

And I would forfeit the confidence that has been placed in me by my colleagues who selected me to be the majority leader.

Mr. President, that is precisely where I stand on the question. "Come one, come all, this rock shall fly from its firm base as soon as I."

Mr. President, I yield to the distinguished Senator from Maryland.

EXHIBIT 1

REFORMBUSTERS IN THE SENATE

How far will Senate Republicans go to resist limits on campaign spending by candidates for the Senate? One answer is 5 feet 11 inches. Normally, that's how tall Bob Packwood, the Oregon Republican, stands. At dawn yesterday he wasn't standing; he was carried into the Senate, feet first, by Capitol police officers. He was one of the Republicans, resisting a campaign finance reform bill, who had walked off the floor and had to be brought back under warrant.

Another measure of Republican opposition will be evident tomorrow, when the Senate votes—for the eighth time—to end Republican filibusters against the reforms. Citizens disturbed by the influence of big money on politics will observe with interest the votes of Republicans like Alfonse D'Amato of New York and Lowell Weicker of Connecticut. By ending the filibuster and passing the bill, the Senate could control campaign costs and scrub away some of the suspicion that has settled, like polluted air, on Washington's marble halls.

Why do the Republicans risk stigma as the Big Bucks party by so stubbornly opposing the reform measure? The bill, sponsored by two Democratic Senators, David Boren of Oklahoma and Robert Byrd of West Virginia, has three goals: to limit contributions from PAC's, the special interest political action committees; to close the legal loopholes through which millions of dollars now pass, and, most important, to create voluntary limits on total campaign spending.

It's these limits that drive the Republicans to their dawn delinquencies. They contend that spending limits favor incumbents and thus the Democratic majority. Challengers often require large campaign funds, they argue, to offset the advantages of incumbents' name familiarity. Reformers cite numerous examples to the contrary; the point could be argued indefinitely.

But what can't be denied is that the present system creates a poisonous impression: that money can buy influence on Capitol Hill. Worse, money does buy such influence; at least it guarantees that a senator will give the contributor a hearing. It's hard to forget an acid wisecrack from a huge Washington trade association last spring: "I know you can't buy a Congressman. But what's wrong with renting a few?"

Given the charges of sleaze arising almost daily against the Reagan administration, Republicans ought sensibly to want to dissociate themselves from the poisonous climate. Tomorrow's anti-filibuster vote will give all senators, and particularly Republicans, their chance.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. SARBANES. Mr. President, I think it is very important to understand the position the majority leader has taken is explicitly grounded on a provision in the Constitution. Is it not the case the Constitution provides that each House is authorized to compel the attendance of absent Members in such manner and under such penalties as each House may provide?

Mr. BYRD. Those are the precise words.

Mr. SARBANES. So that the action the majority leader took the other evening was directly pursuant to a constitutional provision, a provision that has been invoked on prior occasions in this body.

In fact, Mr. President, there is an extended section in the precedents of the Senate that deal exactly with this matter, with the question of the order of arrest, which says it may be adopted by a majority of the Senators present, with or without a quorum, and that orders of arrest may be issued in the absence of a quorum directing the Sergeant at Arms to bring certain Senators before the bar of the Senate.

So the action the majority leader took was not a personal action of the majority leader. It was an action of the leader of the Senate consistent with the constitutional precedents of the Senate, which set out how to address a situation in which, in this instance, a group explicitly decided, consciously decided, to boycott the Senate and bring the institution to a halt.

Mr. BYRD. Mr. President, if the distingushed Senator would allow me to do in this situation as I required of other Senators, I wish to state that I will only yield for a question, except by unanimous consent.

As far as I am concerned, I am ready to yield.

Mr. EXON. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I yield the floor.

Several Senators address the Chair.

The PRESIDING OFFICER. The Chair will state that he has noted the Senator from Oklahoma has been here for an hour waiting to speak. For that reason, he is recognized.

Mr. NICKLES. I thank the Chair. I thank the majority leader for responding.

Mr. DOMENICI. Mr. President, America needs balanced election reform.

I support that, and am distressed by amendment 1405 and other suggestions from the other side of the aisle that would use tax dollars to squeeze individuals out of the election process.

The American voters deserve a fair-shake-for-all election law, one that places its emphasis on people-to-people campaign, not one where the candidates put their hand into the public treasury.

We need to stress people, not PAC's.

It is for that reason that I am supporting dramatic changes in the Federal election law, changes embodied in legislation such as S. 1308 and S. 1672.

The American public dislikes the sharp rise in campaign spending. I do not like that trend. Some calling for "reform" now want some of the costs of campaigning taken from the pockets of the taxpayers.

Yet the public focus is PAC's, not taxpayer dollars or spending limits. PAC spending on races for Congress jumped by more than 25 percent from the 1984 campaign to the 1986 campaign. While personal contributions were up too, they rose by much less, about 18 percent.

So I have concluded that one effective way—probably the best way—to resolve the problems caused by the deluge in campaign spending is simply to drain some or all of the PAC cash out of campaigns. Let individuals decide who gets campaign dollars.

The first three words of the Constitution are key: "We the people." Politics is people; let's encourage that. Individual—and voluntary—participation builds a successful campaign; it builds a successful government.

When I first ran for the U.S. Senate, I used a slogan, "People for PETE." I used it again in 1978, then again in 1984. I intend to use it when I run again.

Why? First, it does possess a nice, catchy alliteration. But the real reason I use the phrase "People for PETE" is that I believe it expesses what politics is all about, or what politics should be all about. And yet, as the Senate debates S. 2, the major alternative is a plan that could well mean that a significant portion of every future Senate campaign is paid for directly with tax dollars; that would convert my next campaign into "Taxpayers for PETE."

That is wrong. Daniel Webster spoke of "the people's government, made for the people, made by the people, and answerable to the people." How can you achieve that with a campaign bankrolled largely with taxpayers' dollars?

When I ran for reelection in 1984, I was supported with some 20,000 individual contributions, the most in the history of New Mexico. Personal contributions ranged from $1 to the legal limit, $1,000. I raised over $1 million in this way, most of it from my friends in New Mexico. Some may argue that no one else can match that enthusiasm in New Mexico. Maybe, maybe not. But is not that what the political process involves?

I have joined in sponsoring three basic election reform bills: S. 1308, sponsored by the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Oregon [Mr. PACKWOOD]; S. 1326, written by the Senator from Alaska [Mr. STEVENS], and most recently, S. 1672, introduced by the distinguished Republican leader, Mr. DOLE.

Each is a good bill. Each would shift the emphasis back toward individuals. Each is far better than the various versions of S. 2, offered by the majority. Each curtails PAC spending; the majority's approach does not.

Why do I support legislation that would lessen the reliance on PAC's, while emphasizing individual contributions?

I am not doing it because I think PAC's are evil, or that PAC's use influence in an unhealthy manner. I do not believe that. But I do believe PAC's are farther from the people, and, given the decisions of the Supreme Court, PAC control appears to be the only constitutional way that is fair and responsible to hold down the cost of congressional elections.

There is no doubt that campaign spending is out of hand. During the 1986 elections, business and labor PAC's poured $45 million into Senate campaigns. That is about $1.3 million per race, a staggering total. Those same PAC's spent $87.2 million on campaigns for the House of Representatives.

Our bills control PAC's; S. 2 does not.

I believe it is also very significant that the Dole bill and its predecessors tackle the danger posed by the superrich candidate. As a result of a Supreme Court decision, candidates may lavish family treasure onto a campaign to buy a Senate seat, despite limits on other givers. Millions in family money has been spent by some wealthy Senate candidates, men who are Members of this body.

Following the plan in my own election reform bill, S. 625, the Dole, McConnell, and Stevens bills place a practical limit of $250,000 on self-funding by wealthy candidates.

These bills also require additional public disclosure, particularly on the financing of get-out-the-vote drives by business and labor.

Best of all, S. 1308, S. 1326, and S. 1672 make these improvements without spending a dime of our tax dollars, and without arbitrary limits on the number of individuals who can become financial supporters of a candidate. The Dole bill, the McConnell-Packwood bill, and the Stevens bill leave congressional campaigns where they belong, in the hands of individual members of the public, outside the grasp of the tax collector and the superrich, while sharply curtailing the influence of PAC's.

These are the strengths of each of these bills. And they are the weaknesses of the reported version of S. 2, as well as various substitutes offered by Senators BYRD and BOREN. These variations of S. 2 simply seek to solve all our election problems and distortions by reaching into the pocket of the taxpayers.

The irony, of course, is that S. 2 started through the legislative process as a PAC-control bill, not a taxpayer-financed scheme. Through a little sleight of hand, S. 2 suddenly emerged as a tax-financed bill, without much in the way of PAC controls. Under all versions of S. 2, a PAC can continue to donate $5,000 yearly to a candidate.

Is that really the kind of so-called election reform we want?

If S. 2 fails to control the top-dollar PAC giving, what does it do? First, it will require an expenditure of an unknown sum every 2 years in tax dollars for Senate elections, then recycle that money back in a deluge of TV ads and bumper stickers. Do we really want that kind of "reform."?

I know, I have heard the argument that S. 2 is "voluntary." It is about as voluntary as paying your taxes every April. What it really creates is the potential of a new Federal entitlement.

Do we not have enough problems with entitlements without the prospect of putting Senate candidates on the dole?

But I would agree that S. 2 offers an ingenious approach. Let me describe how it would work, as I understand the various redrafts of the legislation offered by the distinguished majority leader, Mr. BYRD, and the Senator from Oklahoma [Mr. BOREN].

I should note that I share the distress of my friend from Kentucky, Mr. MCCONNELL, over the specifics in whatever is the latest version of the majority's proposal.

I say that because a number of versions have been printed of late, and each time we look, another modification is presented, usually without much effort to explain the intent and specifics of the modification. Reading these amendments forces one into some of the most convoluted legislative language that I have ever seen.

Therefore, should I misstate a specific provision in the majority's version of S. 2, I hope they will at some point come to the floor to state with specificity just what it is their latest proposal does and what it does not do.

One thing we know it does not do is control in any way the spending of "soft money," the mother's milk of the Democratic candidates to the U.S. Senate. These expenditures are the inkind services provided by labor unions and others, expenditures outside the current election law and outside the scope of S. 2.

I know, we will hear that this spending is outside the control of the candidate, or really cannot be valued, therefore it should not be at issue.

But every single person who serves in this body knows perfectly well that "soft money" contributions provide to Democratic candidates a tremendous boost. And if other types of spending were controlled sharply, the importance of "soft money" would become greatly magnified.

So the issue is not really dollars. The issue is accountability. The issue is assuring voters that they get an honest picture of what is going on, who a candidate is supported by, what kind of people want the candidate to win.

I will take the State of New Mexico as an example, a good one since 19 States would have the exact same limits. In New Mexico, a $950,000 spending limit is set for a Senate candidate.

In return, they get new, special subsidized mail rates, special TV advertis-

ing rates, and the prospect of big taxpayer bonuses, should the opponent exceed the spending limit.

Taxpayer money would be pumped into the campaign once a candidate spends $950,001 or an outside group starts spending money on behalf of a candidate in the race.

Amendment 1405 contains language that provides candidates up to another $950,000 in taxpayer cash if the other candidate exceeds the $950,000 limit in New Mexico; in States such as California, the taxpayer exposure could exceed $5 million.

In addition, the taxpayer has an exposure, on a dollar-for-dollar basis to offset spending by outside groups, ones that would be independent of the candidate. This money could go to either or both campaigns, and permits legal spending by either over and above the $950,000 limit.

It seems to me that these matching funds against outside spending is the fatal link in the majority's proposal. There is absolutely nothing that I can find that restricts all sorts of fake campaigns designed purely and simply to unlock the Treasury for a particular candidate.

Under amendment 1405, if a committee totally outside the control of the candidate decides to get involved in the campaign on the candidate's behalf, the opponent of that candidate will receive an entitlement of cash equal to the value of that outside campaign.

Section 504(a)(1)(C) of amendment 1405 provides tax cash "equal to the aggregate total amount of independent expenditures made or obligated to be made, in the general election involved, by any opponent of such eligible candidate * * *."

Can you imagine the mischief that will be possible under this kind of a provision?

That will be cash over and above the $950,000 he or she already has in the bank, in our small State example. So one candidate gets cash, and the other receives the possibility—the possibility—that the outsiders actually have helped.

What happens if a dummy independent committee is set up to support me with a proclaimed intent of bolstering the Domenici campaign? I have no control over that committee, but my opponent receives cash he or she can use against me. And that dummy committee could spend it in ways that really turned out to be a slap at me.

What an absurd approach. Yet that is at the heart of the proposal from the majority leader.

Mr. President, amendment 1405 and S. 2 are proposals that are flawed, seriously flawed. They are proposals that need to be redrawn along the lines of the Dole bill, a bill that offers realistic election reforms, legislation that achieves reforms without picking the taxpayers' pockets.

I urge my colleagues to work to develop legislation that reforms campaign financing laws to hold down spending, but to do it in a way that stresses individual givers, not the taxpayers.

Mr. BYRD. If the Senator will yield, I ask unanimous consent, without the Senator from Oklahoma's losing his right to the floor, and without it being counted against him as a speech, that the Senator from Maryland, who was quite summarily cut off by me because I was living up to the rules—and were it to have happened to a Senator on the other side this request would have also been made—I ask that the Senator from Maryland be permitted to proceed for at least 2 minutes to finish his thought. I have done what I have done with regard to other Senators. In doing so, I have shut off my own colleague.

I ask unanimous consent that the rights of the Senator from Oklahoma be fully protected.

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

Without objection, the Senator from Maryland is recognized for 2 minutes.

Mr. SARBANES. I thank the Chair and I appreciate the courtesy of the Senator from Oklahoma.

Mr. President, I simply wanted to make the point that I did on the action that the majority leader did take was pursuant to the Constitution, pursuant to the precedents, which was within the framework of the procedures of the institution.

If one stops and thinks about it, the Founding Fathers obviously anticipated the possibility of a situation in which a faction or element in the body might seek to deny a quorum, prevent the institution from doing its work, and explicitly provided that less than a majority of the institution could seek to compel the attendance of those Members.

This procedure has been invoked in the past when it has been found necessary.

What was confronted the other evening was a concerted decision to prevent the institution from having a quorum. It seems to me the action the majority leader took was, in effect, provided for pursuant to and in a sense made necessary by the constitutional provisions and the precedents under which we have operated.

Once someone thinks about it for a moment, obviously you have to have some means of recourse to prevent a faction from completely closing down the institution.

Suppose you had 10 or 15 Members absent on business, ill, a whole range of possibilities, and then you take a minority of the institution who withhold their presence, prevent a quorum from being present, a majority of the membership, and prevent the institution from doing its work.

The provision in the Constitution is obviously designed to address that very situation. In fact, in the past it has been found necessary to invoke that provision. There are precedents in the Senate procedures that provide exactly for such a situation. That was what was done on the other evening by the majority leader who had a responsibility to the Senate as an institution and to the Constitution to take the action which he pursued.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, I thank the Senator from Maryland and I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, there has been an interesting dialog in the past hour concerning the Senate's procedures and I will make only a brief comment. I would say as one Senator I was embarrassed. I was embarrassed that we were engaged on this bill again, even though we have spent weeks on the bill not only last year but also this year.

I happen to be one who thinks we have many serious problems in this country to confront, problems such as trade deficits, budget deficits, and whether or not to fund the democratic resistance in Nicaragua.

I personally place so-called campaign reform very low on the list. But we find ourselves spending a lot of time on it.

We have had a record seven cloture votes on this bill. The bill that is now before us is very similar or has many of the same elements as the previous bills that were defeated on cloture votes.

The reason why they were defeated and the reason why cloture was not invoked was because many of us felt like the legislation left a lot to be desired.

Everyone talks about campaign reform. If you go to your constituents and you ask them, "Are you in favor of campaign reform; do you think we are spending too much money on campaigns; do you think something should be changed?" you will probably get a high percentage that would say yes.

But then if you start asking more questions—if your constituents were aware of the details—I think you will find a majority will say no. Let me give you a couple of examples. You may ask, do you support campaign financing for senatorial elections? Do you think that the Federal Government, the taxpayers, should be funding and financing senatorial campaigns? I think you will find the majority in most States will say no, they do not agree with public financing for senatorial campaigns. They might support it for Presidential elections, but I think

you will find out that a lot of them will say no to congressional races.

And then if you explain to them that one of the provisions in this legislation would enable Senators who participate to have their campaign postage subsidized—one-fourth the cost for anyone else. You would get a first-class stamp for 5½ cents. That means the taxpayer is going to be paying 16½ cents for every letter that comes out from a Senator running for reelection or as a challenger. The third-class rate would be 3½ cents. The taxpayers are going to get it in the ear every single time a letter is mailed. The deficit is going up. I do not think they are interested in adding to it. I do not really think that they want to see their tax dollars being used to subsidize U.S. Senate campaigns.

Yes, campaigns do cost a lot. I was involved in what I felt was a very expensive race in Oklahoma last time. It cost about $3 million apiece for myself and my opponent. A significant portion of it was from political action committees. As a matter of fact, I will enter into the RECORD the total PAC rankings and receipts of the top 50 candidates and challengers for 1986. I ask that it be printed in the RECORD.

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

1985-86 Senate rankings—PAC receipts

Symms (R-ID)[1]	$1,369,168
Broyhill (R-NC)[3]	1,321,230
Cranston (D-CA)[1]	1,319,606
Bond (R-MO)	1,316,556
Specter (R-PA)	1,270,951
Daschle (D-SD)[3]	1,203,901
Zschau (R-CA)[3]	1,202,975
Gorton (R-WA)[1]	1,162,761
Kasten (R-WI)[1]	1,093,147
Abdnor (R-SD)[1]	1,058,553
Moore (R-LA)[2]	1,031,362
Mattingly (R-GA)[1]	1,027,993
Dole (R-KS)[1]	1,022,433
Andrews (R-ND)[1]	1,006,388
Jones (D-OK)[3]	980,305
Hawkins (R-FL)[1]	973,814
Packwood (R-OR)	966,759
Dixon (D-IL)[1]	958,639
Grassley (R-IA)[1]	958,431
Graham (D-FL)	924,127
Hollings (D-SC)[1]	912,917
Kramer (R-CO)[2]	900,780
D'Amato (R-NY)[1]	858,368
Nickles (R-OK)[1]	856,385
Shelby (D-AL)[2]	856,184
Quayle (R-IN)	850,849
Wirth (D-CO)[2]	832,288
Ford (D-KY)[1]	831,368
Leahy (D-VT)[1]	826,894
Breaux (D-LA)[2]	823,717
Reid (D-NV)[2]	808,272
Santini (R-NV)	768,648
Woods (D-MO)	747,368
McCain (R-AZ)[2]	747,083
Dodd (D-CT)[1]	721,189
Evans (D-ID)	676,406
Denton (R-AL)[1]	669,398
Adams (D-WA)	658,396
Mikulski (D-MD)[2]	653,568
Sanford (D-NC)	628,691
Glenn (D-OH)[1]	628,333
Garn (R-UT)[1]	593,242
Murkowski (R-AK)[1]	586,256
Fowler (D-GA)[2]	574,101
Inouye (D-HI)[1]	571,777
Edgar (D-PA)[2]	557,987
Bumpers (D-AR)[1]	504,831
Conrad (D-ND)	484,731
Garvey (D-WI)	462,844
Chavez (R-MD)	282,499

[1] 1986 incumbents.

[2] Candidate had a House campaign committee registered in addition to a Senate campaign committee. Some PAC contributions which were reported given to the House campaign may have been part of a transfer to the Senate campaign, but because of the way they were reported, they have not been included in these totals.

[3] Prior House campaign committee of candidate became Senate campaign committee. Therefore, all PAC contributions reported to the candidate have been attributed to the Senate campaign.

Mr. NICKLES. I see that 14 candidates received more than $1 million, 2 from South Dakota and 11 other States. In my State, I received $856,000 and my opponent brought in $980,000. I will tell you, as the Senator from Maine did earlier in his speech, I do not think that because somebody received this amount of money from a PAC or because their name happens to be on this list they are corrupt, or that they made any type of pact with the devil or any particular special-interest group as a condition of receiving money.

In most cases I think we get so busy and we are working so hard either trying to get reelected or getting elected the first time you really have a hard time knowing exactly who has contributed and who has not. This does not mean that the campaign system could not be reformed or should not be reformed. I personally think that some of these PAC receipts are very high, very high indeed. If we want to limit these amounts, I think that is fine. If we want to eliminate them, I think that is fine. Right now PAC's can give $5,000 per candidate in an election cycle. In a primary and general election they could actually give $10,000. I am in favor of letting PAC's have the same limitations as individuals. Let us say that PAC's cannot contribute any more than $1,000 per election. That would significantly reduce these figures if we think that the current levels are too high.

And lest I penalize somebody by the scrutiny of putting this in the RECORD, I will later place into the RECORD a table listing receipts for candidates who are running in this election cycle. And it also has some interesting amounts. Senator BYRD and I have been debating. He has $663,000 from PAC's in 1988. I do not think that that impugns his integrity. Again, some of these receipts are too high and are going to many members. I am bothered by some people implying that if this money is received, it must be wrong. If individuals do not want to receive this money, they can turn it down. My colleague, Senator BOREN from Oklahoma, does not take PAC money. A couple other Senators do not take PAC money—such as Senator PROXMIRE. That is their choice. That is their decision. Fine. If we want to make sure we have a level playing field and say nobody can take PAC money, that is fine. If we want to say that PAC money should not exceed 20 percent of all contributions, that would be an excellent amendment. If we want to say that PAC money should not exceed 10 percent of all contributions, that would also be an excellent amendment. I would like to see that type of legislation.

As a matter of fact, the original Boren-Goldwater bill actually did have restrictions on PAC's and it stopped ther. Let me tell the majority leader if that was the bill before us today, I do not think you would have needed seven cloture votes and probably another cloture vote defeat tomorrow in order to pass this bill.

But what you have now is not just a limitation on PAC's. The original Boren bill reduced the PAC allowance from $5,000 to $3,000. It also had a limitation on aggregate PAC contributions. That was a good amendment. As a matter of fact, a majority of Senators voted in favor of that approach, including myself.

But what we have before us is public financing in campaigns. There have been several versions of this legislation which were enormously expensive for the taxpayers. I wonder how many taxpayers really know how expensive some of these proposals can be.

I hear a lot about limitation on spending in Senate races, and everybody says, "that is a kind idea; they are spending too much money. I get tired of those commercials." But what about some of the provisions they do not know about? For example, I have heard individuals state, "This bill is voluntary, so Senator NICKLES, if you object to it, you can opt out, you do not have to participate." My response is, what is the penalty if I do not participate? I may not want to be involved in this kind of limitation.

In connection with my campaign, I have a large grassroots committee. I have 1,000 people who have signed up for my Senatorial Club at $1,000 a year. They contribute $250 a year for 4 years, and I am proud of it. These are Oklahomans.

We raise the vast majority of our money from Oklahoma and I am proud of that as well.

If I opt out of the system, what is my penalty?

Well, I find out that my opponent will automatically receive $1.1 million of taxpayer's money by the time I have exceeded 133 percent of the State limit. In my last race I would have easily exceed it. My Oklahoma opponent would get a gift from the taxpayers of $1.1 million. Not only that, but he gets this giant postal subsidy that allows him to mail all of his mail for a nickle a letter.

No one in Oklahoma gets to mail all their postage for 5.5 cents.

Do we really want to have the taxpayers picking up 75 percent of the cost of mail under Senate elections? Have our constituents been knocking on our doors and saying, boy, I want to finance your campaign, I want to write a big check.

I have heard this bill referred to as the incumbent protection plan, and I happen to agree, I think it would make it very, very difficult for challengers. There are many inequities, and that is one of the reasons why you have a partisan difference on this bill. Most Republicans have evaluated the bill and they have determined that it would make it much more difficult for them to be elected.

But let us talk about PAC's. I mentioned that I would favor reducing PAC's. It was interesting; in the original Boren-Goldwater bill we did reduce PAC's. We reduced the total amount and the individual amount PAC's could give.

Mr. President, I ask unanimous consent that this chart be put in the RECORD.

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

1988 INCUMBENT PAC CONTRIBUTIONS

[Total year to date 1987]

	Amount	Percent
Bentsen (D)	$1,380,407.91	29.0
Sasser (D)	710,394.00	42.0
Byrd (D)	663,379.63	74.0
Mitchell (D)	642,113.82	43.0
Riegle (D)	632,414.44	38.0
Wilson (R)	563,513.24	17.0
Hatch (R)	569,982.00	44.0
Lautenberg (D)	544,742.66	24.0
Bingaman (D)	492,950.00	42.0
Metzenbaum (D)	446,158.15	15.5
Danforth (R)	439,467.83	28.0
Burdick (D)	431,352.45	59.5
DeConcini (D)	431,162.84	34.0
Moynihan (D)	420,100.98	30.0
Heinz (R)	414,432.66	26.5
Durenberger (R)	382,130.00	25.0
Hecht (R)	373,200.00	42.0
Melcher (D)	367,215.11	80.0
Wallop (R)	363,786.88	67.0
Chafee (R)	340,110.00	46.0
Weicker (R)	336,765.36	39.0
Roth (R)	273,825.66	40.5
Lugar (R)	273,825.05	20.6
Kennedy (D)	263,050.00	20.0
Sarbanes (D)	260,549.50	40.0
Trible (R) [1]	245,423.00	31.0
Matsunaga (R)	205,000.00	41.0
Jeffords (R) [1]	153,624.00	73.0
Karnes (R)	103,100.00	19.0
Evans (R)	3,350.00	
Stennis (R)	1,000.00	
Chiles (D)		
Proxmire (D)		
Total	12,718,527.17	

[1] Not incumbent.

Note.—Democrats: Total, $7,891,991.49; average, $438,443.97; percent of total 62.05. Republicans: Total, $4,826,535.68; average, $321,769.05; percent of total 37.95.

(Mr. GRAHAM assumed the chair.)

Mr. NICKLES. My President, this sheet shows the 1988 incumbent PAC contributions total year to date for 1987. It shows what candidates who are running in this election cycle have received from PAC's. We find that Senator BENTSEN has raised $1,380,000 in PAC's. He was the leader. That is 29 percent of his contributions. Senator BYRD raised $663,000 from PAC's which is 74 percent of his contributions. Senator MELCHER has raised $367,000. Eighty percent of his money has come from PAC's. As a matter of fact, if you average it all—and I have Democrats and Republicans, and I am not picking on anybody. I am not saying any of this is all that wrong. I am not saying that they have violated any ethical standard or that they would vote one way or another because they received $1,000 or $5,000 from a particular PAC. We hear people say how evil they are, if they are so evil, they can say no. They do not have to receive or take PAC money. It should not be that difficult; if they are bothered by these PAC's, they should just say no or they should limit them.

But when we find several instances where people receive 60, 70, 80 percent of their money from PAC's, I think that is an abuse of the system and I think it would be a good amendment to limit PAC's. The Senator from Oregon Mr. PACKWOOD, has done a lot of work on this. We may want to say that PAC contributions could not exceed 20 percent of your total contributions. Maybe that would be a legitimate proposal. To me it makes sense. If we cannot do that, surely we could limit PAC's and say, well, instead of the $5,000 limit let us make it $1,000.

I believe that would be a good reform. And then you would see these figures scaled down substantially. I look at my Democratic colleagues and they have raised in this year $7.9 million from PAC's. This represents 62 percent of total PAC contributions in 1987. I noticed for the Republicans, there is $4.8 million, and that is right at 38 percent of the PAC money. I personally think those amounts are too high. And so if we are going to talk about PAC reform, if we are going to talk about campaign reform, let us bring them down. Let us limit PAC contributions to $1,000 per person. This type of limit was along the same guidelines as the Boren-Goldwater bill.

But now what we have, instead of the original Boren-Goldwater bill, what we really have is very expensive public financed, taxpayer financed campaigns. That is what I object to, and I object very, very strongly. If a person wants to participate with limitations and so on, if the two opponents wish to get together and say let us not exceed $1 million or $5 million or whatever, I think that is fine. But if they choose not to, a candidate should not be in a situation where the taxpayers are going to be financing his opponent. And that is in this bill. I think there should not be a situation, as in this bill, which is if you elect not to participate the taxpayers are going to be subsidizing your opponent's mail costs, picking up three-fourths of the cost of the mail. I do not think that is right. I do not think political candidates should be able to mail for a nickel. Why should taxpayers subsidize the cost of a direct mail piece at 16½ cents for every piece that goes out first class? The taxpayers will not buy it. We have not heard very much about it. Maybe if people would hear a little bit more about some of the details in this bill, they would object to it. I hope they do.

Somebody says well, you guys have been filibustering this bill. You are strenuously opposed to it. Why? I mentioned we have had seven cloture votes, a record number in the Senate. I might say well, yes, we are objecting to it.

I will give you another example and I will put this in the RECORD. We did a little spreadsheet that shows the amount of money that a person could receive from taxpayers and what they would have to have to qualify under one of the previous proposals. Let me give you an example. Let me start with Alabama, being the first State alphabetically. It said if a candidate in the election raised $290,000, he could receive a total Federal payment of $1,761,000. In other words, he would receive six times as much taxpayer money as what he had raised in the minimum threshold.

This was in the proposal, or a version of this in several of the proposals that we have been voting on. So, again, this is not the original Boren-Goldwater bill. This is after it became the Byrd-Boren bill, where you started getting all this public financing.

In my State of Oklahoma, it is kind of shocking to me; a person with a threshold under this proposal of $237,000—not too hard to raise probably—as a result he could receive a total amount of money from the taxpayers of $1,550,000. In other words, seven times what his minimum threshold would be.

I would object to that. Again, I think taxpayers would reject the idea of candidates putting in a little bit of money, raising a little bit of money from their States and then having the taxpayers finance that kind of proposal.

I guess I would call this Byrd-Boren No. I and No. II, but it is one of the proposals. We rejected it. We debated it. We spent a week or so on the floor of the Senate last year. We brought it up and we defeated it. The proponents were not successful in obtaining cloture. And were not successful in moving it forward.

I know that the Senator from Nebraska wants to speak, so I will not take much longer.

The proponents of the legislation are aware that public financing was really what was generating a very strong opposition in this bill. So if

they were to take public financing out, take the limitations out, and put some reforms in it, some reforms we could live with on a bipartisan basis, limit PAC's, limit soft money, this Senator could support it.

Somebody said: "Senator NICKLES, why would you be opposed to a limitation?"

Well, if you have no limitation on soft money how can you afford to have a limitation on what you receive from private individuals? That would cause an inequity. That is one of the proposals with S. 2 today.

So if we do something on soft money and do something on limiting PAC's, we can pass the bill, keep public financing in the bill and you are not going to get a bill. So we are going to have our eighth cloture vote, and I predict that you are not going to get cloture tomorrow morning.

I tell my friend from Nebraska, that your limitation is $950,000. If you elect not to participate in Nebraska, your opponent can get $950,000 of taxpayers' money. As a taxpayer, I object to it.

I also have reservations about financing Presidential campaigns. Maybe the majority of the body thinks it is the best thing happening. My guess is that we have a lot of candidates in the race because you have taxpayer financing of Presidential races.

Does anybody know how much it costs? I will tell you how much it costs. For 1988, it is estimated to cost $150 million. I think you have a couple of candidates that are in the race right now only so they can draw Federal funds. If you did not have Federal money, they would be out of the race. Maybe some of them did not get a high enough voting percentage, so they will be getting out of the race because the Federal funds will be cut off. They were in the race as long as the money from the taxpayers was coming in. When the taxpayers' money is off, I think you will find a lot of candidates off as well.

You have to question, is that a good process?

I heard the Senator from Kentucky, Mr. MCCONNELL, say that 24 percent of that money was used for compliance, for lawyers and accountants, in trying to figure out whether they were legal or not.

Then I heard, as everyone else did, how all the candidates who are running in New Hampshire were manipulating the laws in trying to figure out how they could put more money than was legal in those races.

Another reason to be opposed to this bill is that it excludes the House of Representatives.

Mr. President, I ask unanimous consent to have printed in the RECORD an article that appeared in the Washington Post earlier this week which shows PAC recipients in the House.

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

THEY "PAC" A WALLOP

The amount of money going to House members up for reelection has jumped 44 percent, Common Cause reports in a new study. The citizens' lobby group said the 412 members expected to seek reelection this year received a total of $24,286,261 in political action committee (PAC) contributions, up from the $16,866,976 the same candidates received in 1985.

This list shows the 16 House members who received more than $150,000 from PACs in 1987. Column two shows the total amount each House member received from PACs. Column three shows the percentage of money raised that came from PACs.

	PAC receipts	Percentage from PAC's
Tony Coelho (D-Calif.)	$223,058	51
Byron L. Dorgan (D-N.D.)	207,846	68
Beryl Anthony Jr. (D-Ark.)	207,187	74
Martin Frost (D-Tex.)	200,924	48
Dan Rostenkowski (D-Ill.)	198,298	42
Robert H. Michel (R-Ill.)	197,490	60
William H. Gray III (D-Pa.)	187,102	79
Robert T. Matsui (D-Calif.)	186,200	45
James H. Quillen (R-Tenn.)	178,100	73
Wayne Owens (D-Utah)	172,800	76
Mary Rose Oakar (D-Ohio)	157,625	71
William V. Alexander Jr. (D-Ark.)	155,374	40
Ronnie G. Flippo (D-Ala.)	153,465	75
Henry A. Waxman (D-Calif.)	152,941	69
Charles B. Rangel (D-N.Y.)	152,575	49
Joseph DioGuardi (R-N.Y.)	150,850	22

Source: Common Cause.

Mr. NICKLES. Mr. President, I will not read this whole article, but mention a few Members. Here is WILLIAM GRAY, who gets 79 percent of his money from PAC's. HENRY WAXMAN gets 67 percent of his money from PAC's. MARY ROSE OAKAR gets 71 percent of her money from PAC's. WAYNE OWENS, 76 percent. On and on. TONY COELHO, 51 percent. Top PAC recipients. I think that is an abuse. The bill before us does not even touch the House of Representatives.

You will have a lot of Senators running against House Members. There will be a lot of races where House Members are going to challenge Senators. They do not have a limitation. They can raise all the money in the House races, and maybe at the last second will run for the Senate. It leaves a lot to be desired. This whole bill leaves a lot to be desired.

I hope the majority leader and the proponents of the bill will pull the bill down after cloture, if cloture is not invoked tomorrow. Then I hope they will look anew to trying to get a bipartisan bill. This bill is doomed. Even if the proponents take this bill in its present form and get it passed, there is no question that the President would veto it, and we have the votes to sustain the veto.

I would pull it down and see if we can get real reform. Let us limit the amount PAC's can give—maybe from $5,000 to $1,000, $2,00, $3,000, whatever this body could agree on. Let us come up with a bipartisan bill, with a bill that does not favor Democrats or Republicans, with a bill that has significant, real reform.

I will mention one other reform that needs to be made. If we ever get to the process where we actually have the amendment process, we need to have an amendment whereby Members who were Members before 1980 would not be entitled to keep their excess campaign funds and report that as ordinary income. That is an abuse in the system.

At present, there are 221 Members who still qualify, who are still eligible, who can take some of their campaign money and use it for personal purposes. We are all going to retire at some point, either voluntarily or involuntarily. I think most of us know of individuals, Democrats or Republicans, who have retired with significant campaign excesses that they have used or are entitled to use for personal benefit. I think they should not be entitled to use that for personal benefit. It is not part of this bill, and it should be.

Mr. President, I am not here to make a long speech. I just urge that when this bill is defeated, the proponents of the legislation will step back. I know they have had meetings in good faith, and I compliment them for their efforts. They should take out public financing of senatorial campaigns. I think that as long as you have it, you will have vigorous opposition, at least from this Senator and others as well, and you probably will not end up with a bill.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I am going to say it, and I mean it, I am not here to talk for a long period of time. I ask the Chair to advise the Senator if I should go beyond 10 minutes.

First, Mr. President, I want to say that history will record the fact, somewhere along the line, that the courageous action taken by the majority leader the night before last to bring some semblance of balance and understanding out of chaos for the U.S. Senate was one of those marks of courage that in future years the U.S. Senate will look back on and say there was a case where the majority leader stood when he had to stand and had no other option. Therefore, Mr. President, I want to salute the majority leader for the courageous action he took the other night.

Also, I have been somewhat taken aback by some of the comments, or at least implications from that side of the aisle, that somehow ROBERT BYRD, the majority leader, took advantage of a situation, was mean-spirited, did something that he should not have done.

You might not always agree with ROBERT BYRD, but I would hope that

all would recognize that if there is a parliamentary gentleman in the U.S. Senate now, or if there ever has been a parliamentary gentleman in the U.S. Senate in its history, ROBERT BYRD of West Virginia would have to stand foremost among them.

I remember well 2 or 3 days ago when this filibuster was started by those on that side of the aisle. The Chair knows, the Parliamentarian knows, both the Republican and the Democratic desk know, and all Senators know, that if there was no one here on that side of the aisle to protect their interests, the filibuster could be promptly brought to an end; because all that has to be done would be for a call of the question on the motion before us, which was the amendment by the Senator from Oklahoma, which, by and large, was the heart and soul of S. 2.

The Republican Member of the Senate who was assigned to protect the Senate at that particular time left the floor. I was here; the majority leader was here. Had the majority leader wanted to, he could have put the question at that time, but he did not. In fact, he stopped the proceedings of the U.S. Senate, we will recall, and he asked for the Republican Member, who I believe went into the Republican cloakroom, to come back on the floor, to protect the Republican interests. But at that time he sent the warning that if that happened again, we will take advantage of our option.

What the majority leader did the other night was not taking advantage of anybody. By walking off the floor of the U.S. Senate in a body, save for one Member, the Republican minority in this body said, "We are going to close this place down."

I guess all of us now have read that part of article 1 of the Constitution which says it is clear that the Founding Fathers recognized that this would be a problem. So they gave the majority leader an option to require the attendance of Senators when things happened in an organized way, planned on that side of the aisle the other night.

I am fearful that the national news media and the local news media did not do a good job in reporting that, and I am wondering how it was understood by the people at large. History will record and state it correctly.

So I salute the majority leader for what he did the other night. I hope that there is a clear understanding in the country as to what he did, why he had to do it, and that no one was abused in that process, despite the "banana republic" statements that we have heard made in that regard on the floor. I think that was all done and advantage was taken in that situation because there is an old saying, "If you don't have the facts on your side, then bring up something else to take away from the issue."

The central issue in this debate is whether or not we are going to allow expenditures for Senatorial campaigns to continue to skyrocket beyond belief so far as collections and expenditures are concerned, and that is the issue. Everything else that has been brought up here are side issues and cloud the basic issue.

As I said during debate yesterday and the day before that, as one of the "gang of eight" appointed by the leadership to try to work out a compromise, there was no chance to compromise, because that side of the aisle said, "We do not want nor will we accept any limitation on campaign expenditures."

I just heard my friend from Oklahoma talk a great deal about how he wanted a cap on political action and how political action expenditures greatly benefitted the Democrats. It is a thing with them. It is a thing with those on that side of the aisle that those of us over here are trying to pass this bill because it will somehow cripple the Republican Party. Nothing is further from the truth.

These arguments advanced by the Senator from Oklahoma and others would mistakenly leave one to believe that if S. 2 passes, the PAC contributions would go on and on to skyrocket and skyrocket, higher and higher than they ever have before and, of course, they obviously say that would benefit the Democratic Party. Nonsense.

The facts of the matter are, if S. 2 were law in the last senatorial election, PAC spending, which totaled $46 million for the Senate race, would be reduced to $16 million, about two-thirds. But listening to the Republican arguments, you would think that it was vice versa, that we were increasing spending.

They have made a great hue and cry, Mr. President, about taxpayer financing of campaigns, and when this bill was originally introduced it was, indeed, a major consideration in the bill. It is the reason this Senator would not support it. I insisted on some changes. If people will live with a reasonable spending limitation, then there would not be a single penny of the taxpayers' money spent if S. 2 became law, if both sides agreed to the fair, equal, and reasonable spending limits contained therein. But they are not going to let that happen, Mr. President. I can only draw one conclusion, and maybe it is not fair, but I can only draw one conclusion. Since those on that side of the aisle have been successful on seven cloture votes and, unfortunately, I predict they are going to be successful tomorrow, the only conclusion that I can reach, Mr. President, despite their position, they really believe that their party will benefit in the long run, if they have unlimited amounts of money that they can raise from whatever source, to buy elections.

I just say, and I think it has been made clear by many speeches here, if the American people are not concerned now about the obscene amount of money that is going into Senate races and other races around the country, then they are delinquent and they are negligent because it should be on the minds of every concerned citizen of America.

Sooner or later, mark my word, there is going to be a major problem, a major scandal, and the stench of that is going to come floating down on all of us because we failed to act.

In conclusion, just let me say, that I hope we can pick up the five votes that is necessary tomorrow on cloture. I would point out to all that there are 52 cosponsors of this measure. It is clear that the majority of the people elected to serve in the U.S. Senate—Democrats and Republicans, or a combination of those—are cosponsors of this legislation, and this legislation would become law if the majority had their way and could work their will. They have been prevented by the filibuster. I hope we can pick up the 60 votes to invoke cloture tomorrow and let the Senate work its will.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BYRD. Would the Senator yield to me just to thank the distinguished Senator from Nebraska for his kind remarks.

Mr. EXON. Thank you.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I will take just a very few moments of the Senate's time. In April 1951, at the end of this building in the House of Representatives Chamber, Gen. Douglas MacArthur made his farewell address to the American people. In that particular and momentous and historic address, Gen. Douglas MacArthur stated in the last paragraph of his message to the American people, "I now close my military career, an old soldier who has tried to do his duty as God has given him the light to see that duty."

That was a historic moment for this country, Mr. President. It was a time of great emotion, a time of great controversy. It was a time when the people of this country probably could have been ignited to have marched on the White House, to have hung then President Harry S. Truman who had fired General MacArthur from the U.S. Army.

We have had another historic situation this week. And that situation presented itself when a Member of this body was "arrested," and I put arrest-

ed in quotation marks because it was a friendly arrest, by the authority ordained by the Constitution of the United States of America.

I think when great leaders come and go that our country and our people will look back, not at the moment, but at the past and the present, and they will attempt to ascertain as to that leadership whether it was great or small or weak or strong, as to how that particular leader saw his particular and respective duty at that particular moment.

I think we have probably arrested one too many Senators this week. I will admit that. I also hope we do not plan to arrest any more any time soon. I do not think there are any plans to do so.

Let us all attempt to agree on one thing. This particular leader, the majority leader of the U.S. Senate, saw his particular duty at the moment of that particular situation, and he exercised that duty as he felt the Constitution of the United States of America gave him that duty. He exercised it without equivocation. He exercised it without reservation. And whether it might have played wrong or right in the press, the next day and the next days to come, I think will be largely irrelevant because it will go down in the history books and in the books of precedent of this institution as a decision that will guide future decisions in the future.

A lot of people have made a lot of fun at this. I am sure cartoonists across America, as our American institution not only encourages but certainly permits, will have a lot of fun doing some editorial cartoons in the future. But I think when it is all said and done, we will look back at this moment and we will see, one, that the arrestor and the arrestee today are in very good shape, both as the majority leader stated the other night with very good humor and good nature about this situation. I think the difficulty will be attempting to capture the real spirit that we felt in this Chamber that particular moment and try to explain the true situation to the American people. A lot of people will take this incident, they will take this arrest and they will try to politicize it. I do not, in all due respect to my colleagues on either side of the aisle who might disagree with what the leader did, in any way think that this should be one of those issues that is politicized.

I hope it will not, and I hope all will bear in mind that what our leader did, he felt was his duty in behalf and for and the advocate of this particular institution, and he did it, and he did it at a moment when many people did not know exactly what to do.

He felt at that moment that his duty was to get on with the business of the Senate. He felt at that time at that moment it was his duty to do whatever he could to have a quorum so that we could do business so the majority or the minority might make a decision on the issue of campaign finances.

A lot of people say, "Oh, this is the first time this has ever happened. What is going to happen to the Nation? What is going to happen to the Senate?"

Let me say, I think we should be a little easy in our fears about that concern tonight. I do not think we should lose any sleep about it. I remember just a few years back when I was a Member of the other body, and I say this in all due respect to the late Speaker, John McCormack when he was attempting to get a quorum, just like our leader was attempting to get a quorum 48 hours ago in this Chamber. Speaker John McCormack, in order to keep a quorum on the House of Representatives floor literally ordered the Sergeant at Arms to lock the doors of the House Chamber. He forbade any Member of the House of Representatives from leaving the doors of the House or the confines of the House without the care and under the care of a deputized member of the Sergeant at Arms staff.

If we left that body, we had to go out of there with a deputy deputized by the Sergeant at Arms and the Speaker of the House.

So I think this Nation is going to survive. I think this institution is going to survive. This is one of those moments when, once again, we have to examine this place as a body and ourselves as its trustees. Once again, it is time when we have to look as to whether or not a filibuster is right or wrong, and we have got some time, I assume, to discuss that in the days ahead.

But I feel when the history books are written that they will be written most accurately by those who said that this majority leader exercised his duty at that moment as he saw the right to fulfill that duty and his responsibility as the majority leader of the United States Senate.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arkansas for his exceedingly kind remarks.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I almost hesitate to rise to speak now. I came over to speak 1½ hours ago, and so many eloquent and wise things have been said that I am reluctant to take the floor. I did not participate substantially in this debate on S. 2. I made a speech earlier in the week, but I felt we should let the other side talk and perhaps reach a conclusion to the filibuster thus allowing us to get on with the important business of acting on this bill.

I certainly do not want my lack of taking the floor to talk on this bill to indicate any lack of interest with either the bill itself or the proceedings that have taken place on the Senate floor surrounding this measure.

Indeed, I feel very strongly about it. In fact, I feel probably as strongly about this one issue as I do anything else that has been presented before this Senate since I have been here, starting in 1985.

I guess I thought, perhaps, that we would reach a resolution, that somehow we would get this bill out, that we would be able to let the Senate work its will, that we would be able to amend it and let some form of this legislation gain passage. I guess that is not going to be the case.

I also want to follow up on the comments made just previously by the Senator from Arkansas. I would note for the record the presence of the distinguished majority leader on the floor. I want to say this to him personally and to the body.

If I have heard once, I have heard a half a dozen times within the last 48 hours, one or more Senators commenting that the majority leader may have exceeded his bounds in ordering the arrest of Senators. I have heard Senators say that it was the majority leader who had ordered this arrest. Like Senator SARBANES from Maryland, I read the Constitution: Article I, section 5. I have also read standing rule 6 of the Senate which empowers the Senate to compel the attendance of Members. It was not the majority leader. I again say for the record, and I know the majority leader has said this himself, it was the Senate who ordered the arrest. It was the majority of the Senators present acting under rule 6 and article I, section 5 of the Constitution of the United States that ordered the arrest of Senators. Not the majority leader.

So if any Senator has a gripe, if any Senator has a case to make on why arrests should not have been ordered, it should be made to the Senate as a body, not to the majority leader. It is the rest of us who were here and ordered that arrest to take place under the Constitution of the United States.

I think that should be made clear. I think the majority leader is getting a bum rap from a lot of people who are saying it was he who ordered the arrests, when it was the Senate that ordered the arrests.

I just wanted to make that clear. I know it has been said before but I wanted to say it again myself because I have heard it said time and time again that it was simply the majority leader, disregarding the fact that we had a vote on that very issue.

Again, I want to compliment our distinguished majority leader for taking the lead in the campaign finance bill

for over a year. It has been a long struggle.

Perhaps tomorrow when the cloture vote is taken we will see the handwriting on the wall and that in fact the Republican Party in concert will not allow the Senate to work its will on this bill.

But I believe the actions of the majority leader I believe that what he has done on this piece of legislation, fighting against all odds, represents really the finest in what it means to be a representative of the people of this country. What the majority leader is doing is fighting the fight for the people.

We know who do not want to put limitations on campaign financing: the forces of wealth, the forces of power, the forces of privilege. They do not want any limits, because in this game that we are playing now, they reign supreme. Those who have the money, those who are privileged, those who have power, who were born into it or acceded to it one way or another, they reign supreme in the game we play now of running for office.

It is the little people who are shut out, the common folks who are shut out.

That is what this battle is. It is the same battle that Thomas Jefferson spoke about one time when he said society has always been and always will be divided into those two classes: that class who believes that all power ought to reside in a few because they have the money, because they have the privilege, because they are more learned; and those who believe that there is a genius among the common people that can be tapped, that power ought to reside among all people, and that even the lowest person, the lowest person in terms of wealth or status or privilege, ought to have an equal say in his or her government.

Those are the two classes at work right here, the same two classes Thomas Jefferson spoke about. Harry Truman spoke about it, too.

So the fight the majority leader has waged has been indeed in the finest tradition of those who fight for the little people of this country, who want to make sure that those little people who do not have that wealth, power or privilege have as much say about who sits in this body as the power brokers downtown and the big PAC's.

The Senator from Oklahoma a little while ago said he was embarrassed that we were on this bill. I am sorry I had to leave the floor and did not catch the rest of his remarks but I wrote that down.

I think we have to be very embarrassed about what has happened and the fact that we are saying that those who have the money, privilege and power will continue to call the shots on the way we conduct our campaigns.

I am embarrassed. I am embarrassed about a party that has a proud tradition in our country, the Republican Party. I fought Republicans and obviously fought hard against the Republicans. But the Republican Party has done a lot for this country. It is the party of Lincoln, of Teddy Roosevelt, the party that did so much in the early days of this country to help the common people. The trustbusters of Teddy Roosevelt, trying to get the little people a little more say so in their government.

To now have the Grand Old Party preventing us from having a meaningful campaign finance reform bill—that is what I am embarrassed about. I am embarrassed that one of the two major political parties in this country has taken that position.

Again, I do not mean to paint all of them with the same brush, but it has been their party position as enunciated by the minority leader of that party in this body. That minority leader has led the filibuster to prevent this bill from coming up. I think that should be an embarrassment, too.

I think the Senator from Nebraska hit it right on the head. When it is all said and done, I think the Republican Party feels down deep inside that they will be better off without any limits than they will be with some limits.

I heard it said the other day on the floor by a Senator on the other side that if this bill were to pass, the Republican Party would be the minority party for the next 40 years. I could not understand why. I engaged the Senator in a private conversation. "Well, it takes money, and where the Republican Party is not in the majority it takes money to do these things."

Mr. President, I have run for office several times. When I first ran for office I did not have a nickel. I had no benefactors, but I had some ideas and I had the strength and feeling about certain issues. I ran against an incumbent who had all kinds of money. But I got a group of people around me, friends, neighbors, relatives, and we conducted a campaign.

Do you know what, Mr. President? I lost. I was outspent 10 to 1 and I lost. But, I did get 46 percent of the vote when the other party was landsliding the State.

I ran again 2 years later and got outspent 2 to 1, but that time I won.

You can win if you do not have much money as long as you have the right ideas. If you go out and meet the people and campaign before the people, you can win.

I note that Senator PROXMIRE spent some $12,000 last time in his campaign and he won. So you can do it.

Do not tell me that somebody is going to be in the minority simply because they do not have a lot of money. If you come out with programs and policies that benefit the common people of this country you will win elections.

Sure, you have to have enough money to be competitive, but it does not take these unlimited, obscene amounts of money we have seen in campaigns in the last few years.

In my own State of Iowa, my campaign in 1984 was $3 million. I think that is obscene, but I spent it and my opponent spent a little bit more than that. That really has to be called to a halt.

Unless and until we can get these limits, we are going to continue to do it. We are going to have to be competitive and the PAC's will have to be competitive and the power structure will have to be competitive. We will just keep spending more and more money.

As the majority leader said a little while ago, people are losing faith in their electorate, in politics and politicians because they see all this money flowing in.

Well, I just feel, Mr. President, that those who say this is not the big issue are wrong. I have heard that said in the dining rooms, in the hallways. They say it is not a big issue. I have heard it talked about in the polls. But they say back home they are not talking about it.

Well, that may be true. But, doggone it, when you are out of work, when you do not know how you will feed your family, when you have kids growing up and you want to send them to college even though you are not making very much money, perhaps just over the minimum wage, when you are 1 of the 36 million Americans who do not have health care insurance and you do not know if you get sick the next day or how you will go to the hospital or not, of course you will not think about campaign reform.

But I can tell you this, if you talk to common people and you ask them if they like the present system, the way we elect people to office, if you ask them whether they think it is right the way we raise money, if that is a fair way to do it, Mr. President, you and I know what the answer is to that.

I do not think I have talked to one person in the State of Iowa about this issue who does not feel strongly that some limits have to be placed on campaign spending. And limits have to be placed on the amount of money that we raise and the influence of political action committees.

We don't have to wipe them out. The bill does not do that. But it does put meaningful limits on them.

I do not cotton to the idea that simply because people are not talking about it every day that they do not feel deeply and strongly about it. They do.

Mr. WILSON. Will the Senator yield for a question?

Mr. HARKIN. I am about finished and then I will yield for a question.

I believe as Jefferson did, that deep within the heart of the common people of this country there resides a genius, an understanding of fairness and equity about what affects them in their daily lives and how those decisions are made here in the Senate of the United States.

They may not be most eloquent in expressing them. They may not be able to write learned letters to the editor. But they feel it deeply and they understand it and they know it is not fair. They want something done about it; they want it changed.

So to those who say it is not an issue, I say beware, beware of the genius of the little people of this country to understand more fully and more thoroughly and more deeply this issue than what I think most people are giving them credit for.

It is going to be an issue, as rightly it should be an issue, this year, in the election, this year on where you stand on campaign finance reform, putting limits on spending. It will be an issue. And I say beware, beware to those who say it is not an issue and say we can just ignore it and maybe it will go away. That issue is going to come by to bite very hard, I believe, in the election this year.

I yield for a question.

Mr. WILSON. Mr. President, my question was prompted by an observation by my friend from Iowa, that there is something wrong specifically with our taking too much money from PAC's. I would not undertake to debate the merits of that proposition. I am willing to accept at face value that he is correct. But, if that is true, Mr. President, then I would ask my friend from Iowa a rhetorical question: if that be true, then why not totally eliminate the PAC's? That is what the Republican proposition would do.

Mr. HARKIN. I am willing to respond to that.

Mr. WILSON. We are willing to totally eliminate PAC's, which the democratic version does not do. We are willing to have disclosure of so-called soft-money expenditures. I hope my friend will agree that one of the great advances of campaign reform has been disclosure insofar as it exists. Why not go further and see to it that we exempt no one and that all activity that contributes to the election of a candidate is fully reported, fully evaluated.

The PRESIDING OFFICER. Does the Senator wish to respond?

Mr. HARKIN. I am pleased that my friend from California brought this up because I responded the other day on this. I will respond again.

There is nothing inherently wrong with political action committees. There is nothing wrong with a group of people who want to advance their interests here in the Halls of Congress and join together to pool their money to give to political candidates. I see nothing wrong with that.

What is wrong is that there is no limit. You can get $5,000 in the primary and $5,000 for the general. That is just from one PAC. Look how many PAC's we have now. Back in the 1970's we had less than 100. I think it is well over a couple of thousand now and the number is going up every day. You can raise unlimited amounts of money from PAC's. What we want to do is to limit the total amount of money that you can receive from all PAC's.

I see nothing wrong with that. I believe those who say, "Do away with all PAC's," again are throwing up a straw man to shoot down.

It is not PAC's, per se, that are wrong; it is the unlimited amounts of money they pour into campaigns that is wrong.

I do not favor eliminating PAC's but we certainly ought to put limits in them. That is what this bill does.

With regard to the second part of my friend's question on the disclosure of soft money, that is why we want a bill on the floor. Let us have the amendments come up. If the Senator offers an amendment to the bill to require disclosure of all money that comes into the campaign, he will have this Senator's vote. I did not mean to say that this bill is the be all and end all and that I will not vote for any amendments. There might be a lot of good amendments that I might support. But you cannot improve the bill if you do not bring the bill up on the floor.

I will ask the Senator, and I will yield for an answer, why will the Senator not let the bill come up on the floor so we can have the amendments?

Mr. WILSON. I will be delighted to tell the Senator why. It is a bad bill. The amendments would fail. The Senator from Iowa might support it but your colleagues would not.

Mr. HARKIN. How does the Senator know?

Mr. WILSON. We know very well because of the 52 signatures on that bill. Let us be honest about it. This has become a very partisan issue. We are talking about a bill that has been labeled reform, which is not reform, which does not go to the gut issues that are disturbing people, at least those who know about them. Now, if my friend is concerned about campaign reform, and I take at face value his protestations that he is, then I would wonder why it is that we are unable to get support for a bill that really is reform, one that would eliminate all problems with PAC's by eliminating PAC's, one that would bring about full disclosure of all soft money expenditures, but one that would not seek to foist upon the American taxpayer the enormous costs of financing our campaigns.

Now, earlier today our friend and colleague from Arkansas asked the Senator from Washington whether or not he was not offended by the fact that so much time had to be spent by Senators in raising money for their campaigns. I did not get a chance to answer that question, but I will do so now. I will say to my friend from Iowa, I am not nearly so offended by being inconvenienced in that way, although it is a big pain, it takes a lot of time and a lot of effort, including the effort to see to it that you are careful that you not take money from a source that would give rise to an unfortunate appearance. But I am not nearly so offended by the inconvenience to me in having to do that as I am by the fact that there is unreported soft money and that it leads to certainly the appearance of some very gross abuses of the public's confidence. One of them very topically today under consideration in the Senate Commerce Committee had to do with why it is that a bill which the Senate has passed, and passed handily, is unable to get action by House conferees.

Well, the answer apparently is that the provision that offends the House conferees is one that is stoutly opposed by a labor union, and that labor union has been known to contribute mightily to the campaigns of those who are now seeking to obstruct the passage of that piece of legislation. It has to do with mandatory random drug testing of locomotive engineers and other safety personnel.

Now, if you want to talk about something that gives rise to a lack of public confidence, here we have a situation in which we do not under existing Federal law require disclosure of soft money expenditures, all the money spent on phone banks, all the other things that are not reported.

Mr. HARKIN. If I might——

Mr. WILSON. Let me just make the point and then I will be happy to yield the floor.

The PRESIDING OFFICER. The Senator has yielded for a question. Has the Senator propounded the question?

Mr. WILSON. I am about to propound a question to the Senator. Since the Senator asked me why we would not come forward and allow this, I would have to say there has been ample debate. I think it has been a fairly wholesome debate, certainly a spirited debate. That is as it should be, and I do not know if the public is exercised about this issue or not. I am not aware of polls on the subject, but we are, and rightly so. I would only say to my friend from Iowa that I admire his stance in saying that we should do away with soft money. There are other abuses that should be done away

with. Frankly, the Republican bill does that. It would eliminate PAC's. It would eliminate the soft money expenditures without disclosure. I am far more offended by those things than I am the inconvenience of having to go out and raise money, and it is not fun. If the question is, do you like it, would you be happy if you could avoid doing it, the answer to that is yes, but not at the cost of heaping an incredible new expenditure upon the Federal taxpayers, particularly at a time when Presidential public financing has not proved a great success; as was pointed out, every candidate since 1976 has been cited by the FEC for some major violation.

Mr. HARKIN. If I might take back just a little bit of my time, I again would respond——

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

Mr. HARKIN. I will be glad to yield.

Mr. BYRD. With the understanding that it not be counted as a second speech; I do not think there will be any need for us to think about it in those terms now with a cloture vote coming tomorrow, and that the speech in the record not show an interruption.

Mr. President, there will be no more rollcall votes tonight, in case any Senator is waiting around with the apprehension that there might be.

I thank the distinguished Senator for yielding.

Mr. HARKIN. I thank the distinguished majority leader.

Again, the Senator from California talked about the Republican bill, the Republican bill does this, the Republican bill does that. Let us bring S. 2 right out and offer it as a substitute, offer parts of it, offer bits and pieces of it. That is what we are trying to do.

Yes, we have had a debate on this issue, but we have not been able to really bring substantive measures to the floor for debate and for voting on those measures. That is what I find objectionable. If the Senator from California believes his measure to be better, bring it up so we can vote on it.

No, the Senator said, there are 52 signatures on this bill. I know the Senator from California has cosponsored other bills just as the Senator from Iowa has. Does the Senator from California mean to say, on any bill he would cosponsor, that he would never contemplate ever changing one bit, would never vote for an amendment to it? That the way it is initially drafted is fine and perfect?

I dare say that would not be the case. I will yield. I did not want to put words in his mouth, but I doubt that he would ever want to take that position.

Mr. WILSON. I am happy to say to my friend from Iowa if he can persuade 51 or 52 of his colleagues to follow his leadership in supporting the disclosure of soft money, if he is willing to find 51 other votes to join the Republicans who are proposing the elimination of PAC's, then we have something to talk about.

Mr. HARKIN. I will not vote to eliminate PAC's I have already stated my position on eliminating PAC's. I am not in favor of it. Maybe some are. Let us have the votes out here and see how they go. But I am not in favor of it. And, yes, I will join the Senator in trying to persuade Senators to vote for disclosure of soft money. I think we ought to. I cannot twist anybody's arm. I cannot force any votes. I can use whatever little power of persuasion I might have, but bring it out and debate it. Let the chips fall where they will.

You might be surprised. You may have 51 votes for disclosure of soft money. You may have 51 votes for bits and pieces of the Republican bill. I do not know, maybe you will have 51 votes for the whole thing. But if we do not get past the filibuster, you see, we will never get to it, and that is what we keep coming back to. Are we going to have debate as we are having now or are we going to have a debate leading to substantive votes on these issues.

That is really the point I was trying to make. And I do not know for the life of me why, if the Senator from California feels strongly about these measures, we do not bring them out for a vote and see what happens out here. That is the way that will work. I do not believe that the 52 Senators who signed that bill—I am one of them—will not vote for any amendments. That is nutty. Of course, I will vote for amendments. I may vote for some, vote against others. I may have a couple of my own I want to put on the bill, but I am not going to take the bill exactly as it is. I signed the bill because I think basically the thrust of it is good. But again I would say I do not want anyone to think that simply because somebody is a cosponsor, they are not going to support amendments. I think it is ridiculous to think that. Of course, we will.

I have taken my time; I have had my say. I appreciate my friend from California for engaging in a colloquy with me. We can have debate on this. It is not personal. People feel strongly about these issues, but we ought to have a substantive vote on them and see which way we are going to go.

I close my remarks by saying I believe a great opportunity has passed for us to make some meaningful changes in limiting the amount of money, the obscene amount of money that we spend in these campaigns, by limiting the amount of money that comes from PAC's, by doing a lot of things that open up the system to the little people, the common folk, to take away the power—the inordinate amount of power that comes into the process by those who have a lot of money. We passed up a golden opportunity to do that.

We are not losers here, but I think the American people are the losers because I think our failure to act degrades us all, it degrades this institution, it degrades the whole profession of politics in helping to try to govern this country.

I am sorry it has had to come to this. But, again to those who stood at the gates and would not let this bill come up for a vote because they do not think it is an issue with the American people, I close by saying, beware of the people of the United States because they have had enough. They have had enough of this excessive spending on campaigns and the way we run them. I believe that they are going to make that an issue in the elections coming up this year.

I ask unanimous consent that an editorial from the Cedar Rapids Gazette in support of S. 2 be included with my remarks.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Iowa for his very kind remarks concerning me.

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

CAP PAC DONATIONS

Do-good Democrats and Common Cause members aren't the only ones who would like to see changes in the way congressional campaigns are financed. It turns out the directors of much-maligned political action committees have a few misgivings, too.

The PAC directors' apprehensions are detailed in a study prepared by the Center for Responsive Politics, a bipartisan organization that examines political trends. In interviews conducted for the study, PAC directors said they have grown resentful of greedy lawmakers. They recount how legislators keep black books that list their contributors, how the lawmakers become offended when PAC representatives fail to attend their fund-raising events and how the committees are constantly badgered by congressmen and senators (or their aides) for contributions.

"Sometimes it is impossible not to give to members even if they don't need it," one PAC director said. "Congressmen will absolutely dog you to death."

It's hard to find anyone who is particularly happy with the role PACs play in congressional campaigns. Many congressmen, both Democratic and Republican, complain that the current fund-raising system forces them to spend too much time aggressively soliciting for money from PACs. Other critics worry that PACs have grown too influential in Congress and that the amount of money the committees give to legislators has become excessive.

Even with all this criticism of the system, Congress has been slow to deal with the problem. It doesn't take a genius to figure out why. Lawmakers had a golden opportunity last year to enact reform legislation, but the bill died in a filibuster organized by

many of the same greedy legislators of whom PAC directors complained.

In the next few days, the Senate is scheduled to reconsider a campaign finance bill that would, among other things, limit the amount a congressional candidate can accept from PACs. Senators should check their greed and put a cap on PAC contributions.

Mr. PACKWOOD. Mr. President, as we discuss the issues of campaign spending, we tend to talk in either ideal abstractions or on the basis of our own down-to-Earth experiences. Of the two, I find "down-to-Earth" more useful in the current debate.

All of us on the floor and in this debate are campaign veterans. I am a veteran, too, of Oregon legislative politics as well as four statewide Senate races now. When you are on the ground in a campaign, you learn a great deal about the extraordinary value of volunteers and also about the costs of campaigns, particularly the growing expense of advertising.

Let me first explain Oregon is unique in a lot of ways. I know each of us believes our home State is exceptional, and no doubt, each of us is right. However, I assure you Oregon has a unique political tradition, beginning with our pioneering the primary system at the turn of the century. Now that we are headlong in the midst of a monstrous Presidential primary season, I sometimes wonder what Oregon unleashed. But Oregon-style politics, and the primary system especially, represent the value of encouraging people to take direct, active, hands-on part in electing their representatives.

In my first race for the Senate, I imagine we worked with over a thousand volunteers. I am talking about school kids, women and men, seniors, college students who walked door-to-door, hammered in lawn signs, leafletted, stuffed envelopes and staffed phone banks. You all know what a "boiler room" looks like. And in 1968, our average contributor gave less than $40.

Interestingly, 18 years later, we find things have changed. But fortunately, not in the numbers and enthusiasm of volunteers. In 1986, instead of 1,000 lawn signs, we assembled and distributed over 14,000 lawn signs, distributed over 200,000 pieces of literature. Of course, these weren't the same volunteers. Often, they were the daughters, sons and even grandchildren of our volunteers in 1968.

The cost of running a campaign, of course, changed dramatically over nearly two decades. Inflation grew by bounds, along with rents, mailing expenses, and above all advertising costs. The cost of a 30-second television spot in 1968 in metro Portland was a fraction of that cost in 1986. The same can be said for radio—even more so.

Yet even with the changes in the cost of campaigning, there was something that hardly changed at all: the size of our average contribution. Individual contributors continued to give, on average, $39.

That is a point I just cannot emphasize enough. Sure, campaigns are costly. Running a business or keeping a nonprofit afloat are both costly. Almost without exception, any enterprise costs more today than it did 18 or 20 years ago. And that simply leaves us with two choices: either raise a lot of money from a handful of contributors, or raise smaller amounts from many small givers. I make no secret which direction I choose, and which direction I think makes far better public policy. And I know what works in a campaign, and that is direct involvement: the involvement of countless volunteers and small donors.

In all my campaigns, we have purposefully worked to recruit as broad, and as diverse a base of contributors as possible. It takes time, it takes work and it takes expense, but consequently, the one tried and true fact is that our average contribution remains low. In 1986, roughly 87 percent of our contributions were from individuals. We started early, worked hard and recruited a broad base of individual givers. We had more than 165,000 individual donors by campaign's end.

Looking to 1992, we again start out with the belief that early is better and the more small contributors the better. I believe we can show that a broad base, with thousands of contributors, is possible, and for the time being we do not intend to accept contributions from political action committees. As we get closer to 1992, we will again assess the circumstances and the possible challenges we will face, including whether my opponent refrains from accepting PAC contributions, to decide if PAC funds are necesary. In any event, small contributions—$10, $20, $30 gifts—will once again make up the vast bulk of the campaign funds.

For the better part of the last 2 weeks we have debated reforming the way we fund campaigns and we have talked about the political process and the role of the candidate. I fully support reform. But adopting reform means putting the voter first and keeping the voters involved in the political process—not by a taxpayer-funded checkoff but by genuine, direct participation. That is the kind of reform I will support but unfortunately that does not describe the provisions of S. 2.

REGARDING CAMPAIGN PRACTICES

Mr. D'AMATO. Mr. President, one would think that, in the course of a week in which the Senate has been in continuous session since Monday morning—not a record, but more than long enough—just about everything has been said on the subject of campaign finance reform that could be said.

But after all this time, I find much of the focus of this debate still strangely misplaced.

ALREADY OFFERED TO ABOLISH PACS

For myself, Mr. President, I am not here to argue for or against PAC's. My own position about political action committees has been clear throughout this Congress. I remain unconvinced that PAC's are evil; but if the American people think they might be, then we should do away with them. No fiddling with this or that technical requirement. No adjustment of contributions or expenditure units. Large or small, up or down. Just get rid of them.

I know many of my colleagues on this side of the aisle agree with me. Senators PACKWOOD and MCCONNELL have submitted alternatives that would zero out PAC's. I am an original cosponsor of those bills.

But the proponents of S. 2 have found those PAC-eliminating amendments unacceptable. While railing against the supposedly pernicious influence of PAC's, it is they who refuse to do without them. If PAC's are the problem, Mr. President, why not just do away with them? We are willing. We've said so. We've offered. It is the other side that has refused to do so.

TAX EXEMPT ABUSES

I would, however, like to draw my colleagues' attention to a form of abuse that I find particularly outrageous—that is, the abuse of tax exempt organizations for political purposes.

I am referring to the activities of a number of so-called 501(C)(3) and 501(C)(4) organizations. I find these abuses particularly outrageous, Mr. President, because they are already illegal. They are illegal under the election law; they are illegal under the Internal Revenue Code and regulations.

And yet, Mr. President, such activity by these organizations was pervasive in the last senatorial election.

That activity took many forms. It included:

Direct mail and advertising against specific Federal candidates.

Provision of mailing lists to candidates.

Provision and recruitment of volunteers.

Provision of trained professional staff assistance.

Availability of phone banks.

Voter education, membership contact, and voter turnout programs.

Issue development and research.

Provision of office space and other facilities.

What's wrong with these activities? Not a thing—except that the law is very clear on who can engage in them, and with whose money.

In order to obtain their tax exemptions, these organizations must be incorporated. Mr. President, the election law is murky on a lot of points. Corporate participation in Federal elections is not one of them. If the law is clear on any thing, it is that the involvement of corporations in elections is illegal. They may not contribute, they may not underwrite election-related activity on behalf of or in opposition to any candidate (2 U.S.C. 441(b)).

Further, it is equally, if not even more clear, that taxpayers' dollars cannot be used to underwrite such activity. Those organizations granted tax-exempt status—in essence, a subsidy from the American people—must refrain from partisan political activity in order to keep that status. I think even my friends in this body who advocate public financing of campaigns would agree that this is not a proper kind of taxpayer support for political activity.

And yet, that is exactly what has been going on. In well-documented instances in the last cycle alone—in Missouri; in Wisconsin; in Pennsylvania; in Washington; and in my own race in New York in 1986—the law was ignored and tax-exempt privileges abused in the cause for partisan political ends.

Candidates—incumbents and challengers alike—found that rallies were organized and publicized, fund-raisers held, and volunteers recruited, all under the auspices of supposedly nonpartisan, tax-exempt entities. What a cynical abuse, Mr. President. If we truly want reform; if we are truly concerned about the integrity of the electoral process, then we need to curb these abuses already in violation of the law—rather than haggling through the night, sifting through the technicalities to see where our respective advantages might lie.

Let me just take a moment to describe the instance with which I am most familiar.

In my own reelection campaign, my campaign staff noticed a remarkable overlap between donors to my opponent's campaign and contributors to a 501(c)(3) organization of which he was the President. Nothing automatically wrong there. But it did start us thinking.

When we looked a little further, we found that the campaign and the foundation shared the same address. Imagine our surprise, Mr. President, when we called the campaign's phone number and were answered by someone identifying the line as the foundation's.

It was so blatant, Mr. President, it was almost comical. Almost. What wasn't, and isn't, funny, is the deliberate and cynical use of a taxpayer subsidized organization to provide staff and office space, at ridiculously reduced cost, to a partisan political effort. In legal terms, this and other conduct, such as the ready availability of mailing lists and phone banks, constituted unlawful and unreported corporate electoral contributions.

I cannot resist adding that postelection materials sent out by my opponent brazenly confirmed this illicit relationship, inviting the faithful to stop by the foundation's offices as "there's still work to be done on the Senate campaign—and— * * * maybe the next campaign?"

Fortunately, my campaign was on a sound enough footing that this illegality did not critically disadvantage us. The same was not true of other campaigns. Whatever these organizations called themselves—the citizen action group; the Wisconsin action coalition; the democracy project; Washington fair share—their illegal impact could be felt.

Mr. President, these groups are not PAC's. No change in the contribution or expenditure limits will affect them. Nothing in S. 2 addresses their conduct, or the new note of cynicism and abuse they inject into the process.

We have heard the word "reform" in this Chamber in the last 36 hours more times than I would care to count. But how can there be any reform, Mr. President, so long as candidates and parties continue to countenance—or even encourage—illegal campaign activity, and violations of the election and tax laws on their behalf?

Mr. President, I yield the floor.

THE EUROPEAN CONVENTIONAL BALANCE DEBATE

Mr. WIRTH. Mr. President, today I wish to share with my colleagues another sound analysis of the conventional balance the United States and the U.S.S.R. faces in Europe.

In this article:

Stephen Biddle criticizes the way the European conventional balance has come to be viewed, and calls for a reorientation of analytical thought away from measuring the balance of material implements of war towards a view of how the actual dynamics of combat itself are likely to unfold. More specifically, Biddle contends, it is vital to strive for a better understanding of what circumstances engender combat stability or instability, defined as under what conditions battle will reduce or magnify initial imbalances between warring armies.

Such an understanding of how combat works, and whether force ratios will converge over time toward an equilibrium or diverge toward larger imbalances, brings with it enormous consequences for NATO strategic planning. If a situation of combat instability exists, any imbalance from the proper equilibrium of force ratios will result in increasing imbalances as combat progresses, and marginal changes at present in Alliance defense spending will have little impact on the course of future hostilities. On the other hand, if a situation of combat stability can be brought about, there is little argument for large spending increases or major changes in military doctrine of Alliance strategy. Simply put, it is much more effective for NATO to try to shift the nature of the combat process toward stability rather than increasing material wherewithal in a situation of combat instability.

According to Biddle, the widely diverging estimates of the conventional balance one encounters indicate that nearly all of these assessments presently assume there to be a situation of combat instability. If correct, this is a matter of great concern for all, regardless of one's position in the analytic debate over material adequacy. If not, these assessments do little to clarify the actual state of the balance. Whatever the case, the consequences of basing policy on an incorrect judgment are severe, as the resultant policy recommendations will do little good and inflict possible harm. The present situation of ignorance can be resolved only through a broad-based process of study and debate within the Alliance.

Combat can be viewed as a process with inputs—in the form of men, material, and supplies—and outputs—in the form of casualties, and ground gained or lost. Input measures are analytic methodologies that describe the first of these. Output measures are methods for predicting the latter. Of course, it is the result—the outputs—of combat that matter, so any assessment must somehow reach a conclusion as to likely outputs. For output measures, however, the prediction of outputs is formal and explicit. For input measures, such prediction is a process that takes place entirely outside the formal methodology. Input measures simply describe the input forces in greater or lesser detail, for example, by measuring their numbers, their size, their speed, or the weight of steel they can fire in a single volley. The methodology itself makes no statement as to which of the sides it has thus described would win if it came to a fight, or by how much, or how quickly. The analyst must use his own judgment to reach these conclusions. Output measures, by contrast, produce formal estimates of how a battle would turn out in terms of the two sides' losses and the movement of the front.

There are two basic types of input measures: simple bean counts and effectiveness index methods. Bean counts simply tally the number of weapons or formations of a given type available to the two sides.

Bean counts, however, pose difficult problems of interpretation. Weapon quality, for example, cannot be reflected by simply counting systems. Bean counts also provide different "balances" for each weapon type. The balance of antitank missiles is more favorable to NATO than the ratio of main battle tanks, which is itself more favorable than a comparison of available artillery tubes. It is not clear how these assessments should be integrated into an overall picture of the balances.

Effectiveness indices, by contrast, produce a single value, or index, to represent the aggregate combat power of a heterogeneous force. Typically, that aggregate score is then divided by the value of a single reference formation—usually a U.S. armored division—to produce an estimate of the Armored Division Equivalent strength of the force, or its "ADE score".

Only a few of these variable assumptions can be assigned particular values with high confidence. For most, it is impossible to know what values they will take on in the event of an actual war. The decision of the French, for example, to participate in defending West Germany will hinge on political conditions that cannot be predicted in

advance, including the nature of the crisis, the state of intra-Alliance relations prior to the crisis, and the relative success of Soviet diplomacy in driving political wedges between NATO governments. Nor can one predict the Soviets' willingness to accept risk on their eastern border in order to send forces to the West, or whether NATO will respond promptly to warning of Soviet mobilization.

The balance of input forces available to the two sides is subject to large, inherent uncertainties to a degree that the public debate has thus far failed to acknowledge.

As for simple bean counts, these are typically interpreted in time-series form, showing that the numerical ratio of weapons has worsened for NATO in recent years. In conjunction with descriptions of Soviet technological improvements over the same interval, this is often cited as evidence for a pessimistic view of the balance. The key question here, however, is not simply the pace of Soviet modernization and weapons acquisition, but rather the resulting effectiveness of the fielded arsenal relative to NATO's. This cannot be discerned by simply counting weapons.

Most official assessments of the conventional balance have been conducted using variations on a model created by Frederick William Lanchester in 1914. Lanchester's work focused on attrition (as opposed to movement), and in particular, on the casualty-rate implications of the ability to concentrate fire. Lanchester argued that where the fire of several shooters can be concentrated on a single target, the result would be a disproportionate advantage for the numerically larger side.

The larger the initial divergence, the sooner the smaller side is destroyed, but even small advantages will eventually produce total defeat for the weaker side. Moreover, any given input imbalance will be telescoped into a larger output imbalance as a result of combat. Mathematical systems displaying this property are sometimes called unstable equilibrium models.

Models with this structure can thus predict surprisingly rapid defeat for powers which are only moderately inferior to their opponents in combat inputs. It is not necessary to assume an overwhelming Warsaw Pact superiority in material to produce a pessimistic assessment of the balance on the basis of such an analysis. As long as the input force ratio is higher than the equilibrium value, Lanchestrian output measures can predict decisive defeat for NATO.

Conversely, some of the most optimistic assessments in the current debate are also the products of output measures. Dr. Joshua Epstein of the Brookings Institution argues that ". . . NATO has the material wherewithal [today] to stalemate the Warsaw Pact." This conclusion is based on the results of his own output methodology, the adaptive dynamic model.

While the adaptive dynamic model is different in many respects from either simple or extended Lanchestrian models, it shares one crucial characteristic: it displays unstable equilibrium behavior. Pessimistic Lanchester analyses assume an input balance slightly above the model's equilibrium—with the result that the force ratio gets worse over time. Epstein's optimistic adaptive dynamic analysis uses an input ratio slightly below the model's equilibrium. The initial force ratio likewise diverges from equilibrium, but since Epstein's input ratio is less than the equilibrium value, the balance improves over time, until NATO actually outnumbers the Warsaw Pact after 40 days of combat.

Modest differences of opinion between analysts can produce radically different balance assessments, if they push the initial balance of forces across their models' equilibrium ratios. Analysts who broadly agree that the force ratio in Europe is between 1.5:1 and 2:1—the same range that produces a consensus of guarded optimism for effectiveness index analysts—can still disagree radically over the results if they assume instability, and if the equilibrium ratios they use fall generally in the same range.

Perhaps more importantly, instability implies that any given analyst will often predict dramatic changes in his baseline combat outcome as a result of plausible variations in scenario conditions.

The extreme variance in assessments of the conventional balances is thus the result of applying unstable equilibrium models to a relatively narrow range of disagreement between analysts as to the balance of combat inputs. Unstable equilibrium models imply a volatile balance. Small differences in inputs produce larger differences in outputs. This means that any analytic disagreements over the precise balance of military material can result in larger differences in assessments, and that small shifts in scenario conditions can change success to decisive defeat, or vice versa.

If this assumption of instability that underlies current output measures is correct, however, there are larger implications for NATO which are potentially very unfavorable—regardless of one's position in the analytic debate over material adequacy. Instability implies extreme sensitivity to variation in the input balance of forces. If NATO could be confident that the input balance would be below equilibrium, instability could produce very favorable combat results. Unfortunately, NATO cannot be confident that a favorable balance will obtain in time of crisis. Yet, if the balance comes out even slightly above equilibrium, the volatility of an unstable combat process produces a rapid defeat.

There are two reasons why NATO cannot be confident that the input balance will be below equilibrium in a crisis. The first is the scenario uncertainty inherent in the nature of European politics and inter-alliance diplomacy.

Even if political fortunes are only slightly unfavorable, it does not require a large change in the input balance under instability to produce either a hopeless situation or a successful defense, and that input balance is inherently variable . . . the uncertainty introduced by this input variation is not evenly distributed, however. NATO is a strategically defensive alliance. In a crisis, it is not likely to attack the Soviets, if it is the beneficiary of Soviet political misfortune. On the other hand, the risks to NATO should political fortunes go the other way, could be severe, and we cannot be confident that diplomacy will favor us in all potential future crises.

Political uncertainty is not the only way that input force ratios could fall below the equilibrium threshold of an unstable combat process. It could also occur as a result of differential concentration of forces. If it is easier for an attacker to concentrate than it is for a defender to counterconcentrate, then it is possible for an attacker to create a local advantage, even if he is outnumbered theaterwide. Under instability, this advantage can produce a rapid breakthrough, if it pushes the local force ratio above the equilibrium threshold. Of course, to obtain this local concentration, the attacker must accept relative weakness elsewhere. To succeed, the attacker's concentration must pay off before any of his weaknesses produce defeat. By magnifying the consequences of small differences in force ratios, however, instability permits a small difference between the sizes of a local advantage and a surrounding disadvantage to produce a large difference in breakthrough rates. That is, if the attacker's local advantage is any larger than the disadvantage he gives up elsewhere, instability allows him to break through in the key sector long before any of his (smaller) weaknesses produce decisive results.

Of course, this is only a problem if the Soviets can concentrate faster than NATO can counter-concentrate, and NATO does have command-and-control advantages of the Soviets that could make it easier to respond. On the other hand, the Soviets have one crucial advantage simply by virtue of being the attacker: the initiative to choose the time and place of the attack. As a strategic defender, NATO cedes to the Soviets the advantage of the first move, and the potential benefits of surprise and deception. If a NATO commander should misread a Soviet feint, or respond too slowly to a properly identified concentration, an unstable combat process could produce a decisive defeat for NATO. Such a defeat could result even if the nominal theaterwide force ratio is below equilibrium, and even if crisis diplomacy works out to NATO's advantage. To be confident of its defenses under instability, NATO must, therefore, be confident that political uncertainties in future crises will always break in its favor, and that NATO military commanders will not misstep in responding to Soviet concentration attempts. Either possibility could mean disaster, if the nature of combat is unstable.

It is not clear that instability is the only alternative, however—or even whether the current balance is best described by an unstable model of combat. Two other possibilities can be discerned: a combat process in which the equilibrium ratio is stable, and one in which it is dynamically neutral.

[In] a stable combat process . . . as with instability, an equilibrium force ratio exists for which the two sides suffer equal fractional losses and for which the force ratio thus remains the same over time. The difference is that force ratios above or below equilibrium converge toward that value, rather than diverging away from it as they do under instability. Initial imbalances thus become smaller over time rather than larger. An attacker may still overwhelm a weaker defender if his input superiority is large enough, but a given difference in inputs always produces a smaller difference in outputs.

[If] a dynamically neutral combat process [takes place] . . . input force ratios neither diverge nor converge over time. Instead, initial imbalances are roughly equivalent to outcome imbalances. Conventional balances assessments using input methodologies typically imply an underlying, intuitive model of combat that corresponds to a dynamically neutral process. Under a neutral process, if the initial balance is slightly unfavorable, the results will be slightly unfavorable. Given a moderate Soviet input advantage, the implication of such a process is that NATO can be reasonably hopeful—while the balance is not ideal, neither is it catastrophic.

Which, then, of these three alternatives best describes the modern battlefield? Unfortunately, the current conventional balance debate offers us no guidance. This discord in this debate is largely a result of the effects of unstable equilibrium models on moderate discrepancies in input, but the participants themselves have never addressed their underlying assumptions with respect to stability, much less defended them systematically. Moreover, there is no prima facie reason to exclude any of the three as a serious possibility. Indeed, twentieth century military history provides some support for each.

Instability, for example, is consistent with blitzkrieg warfare of the sort encountered in the German invasion of France in 1940 or the Israeli victory over the Egyptians in 1967. Extreme instability, if combined with conditions that favor differential concentration, amounts to a form of offense-dominance; such attackers are able to defeat a reactive defender without the benefit of overall numerical superiority.

Stability, on the other hand, is consistent with stalemates such as the trench warfare on the Western Front between 1915 and 1917, the ongoing Iran-Iraq War, or even some battles of the Second World War such as Kursk on the Russian Front in 1943. Extreme stability implies defense-dominance, since the longer a numerically superior attacker fights, the weaker he becomes relative to his opponent, and since an outnumbered combatant has no option for victory by attack. Conditions intermediate to these two extremes can be seen in engagements such as the Lorraine campaign of 1944 or the invasion of Sicily in 1943, in which numerically superior attackers made slow but steady progress.

Each of these conditions is thus plausible. This implies, however, that it is at least possible that the current balance can either be as pessimistic as official estimates suggest, or as optimistic as outside critics argue, or even that the balance has properties of stability that neither group currently recognizes. Without a better understanding of the determinants of stability, we cannot know.

The consequences, however, of basing policy on an incorrect judgement are potentially severe because the policy recommendations implied by each of these states are largely contradictory. Under stability, for example, the primary policy objective is simply to avoid getting in the way of the system's inherent bias in favor of defenders. There is little argument here for significant increases in spending, or major changes in military doctrine or Alliance strategy. Most important, a stable combat process also insulates NATO against much of the uncertainty inherent in the sensitivity of the input balance to political circumstances, since only a very large imbalance poses a real threat.

Conditions between a stability and instability create different recommendations—principally for spending increases as the primary response to today's balance of input forces. Here, however, political and strategic uncertainties are again a problem for NATO. While less catastrophic in effect than they would be under instability, these uncertainties suggest that if NATO wishes to be reasonably confident in the performance of its conventional defenses under a neutral combat process, it must overinsure to some degree. Inasmuch as the Soviets are likely to at least somewhat increase their own expenditures, the results can be substantial pressure for major spending increases.

Under instability, on the other hand, it is unlikely that increase spending could ever be sufficient to provide confidence in the Alliance's ability to defend itself. Higher expenditures would certainly be helpful, but they can neither guarantee diplomatic success nor fully ensure against the potential for error in responding to Soviet strategic initiative. Instead, if the combat process is highly unstable and if differential concentration is a serious threat, a strategic defender has a substantial incentive to combine increased defense spending with an offensive military doctrine. Offensively-oriented doctrines are, in fact, becoming increasingly popular among NATO militaries. A more offensive NATO doctrine, however, makes NATO's posture more provocative in a crisis. Moreover, unless NATO is prepared to attack preemptively, offensive action is inherently more difficult, since the Soviets are granted the advantage of the first move. Instability thus implies a fragile security at best, and at worse a nearly hopeless problem for a strategically defensive alliance in a politically uncertain world.

Given the inherent problems of instability, the primary policy recommendation stemming from such a condition must be to avoid it, if at all possible. To the extent that the current balance is unstable, our first priority should thus to be to shift the combat process in the direction of greater stability. (Indeed, greater stability constitutes the only recommendation which makes sense, whatever the current state of the combat process.) Unfortunately, however, we as yet have no systematic understanding of the determinants of stability to guide such an attempt. Indeed, there is at present no way to know even whether such a shift is possible.

The only way to develop such an understanding is through a broad-based process of study and debate within the Alliance. The current NATO dialogue on the conventional balance, however, is unlikely to produce such an outcome. While we dispute analytic differences whose magnitude is small relative to political uncertainties which we can neither predict nor control, the crucial questions of stability and the feasibility of a stable battlefield go unexamined. It may be that the determinants of stability cannot be known with certainty. On the other hand, we operate today in an environment of nearly complete unawareness of the implications of the nature of the combat process for Alliance defense policy. At the very least, the result of this unawareness has been a conventional balance clouded by the failure to recognize the underlying causes of analytical disagreement, and consequently, a debate argued over the wrong issues. If we are to make progress toward real security, it is essential that this debate be redirected, and that the crucial issues of stability and the implications of offense and defense in conventional warfare receive the attention they deserve.

REQUEST FOR INVESTIGATION INTO CIA ACTIVITIES WITH RESPECT TO PANAMA

Mr. HELMS. Mr. President, disturbing allegations were made during sworn testimony before the Subcommittee on Terrorisim, Narcotics and International Operations, on Tuesday, February 9.

Jose I. Blandon, a former confidant of Panama Gen. Manuel Antonio Noriega included in his testimony before the subcommittee that the Central Intelligence Agency and the National Security Council prepared "intelligence reports" on certain Members of Congress and their staffs and furnished these reports to General Noriega. General Noriega is head of the Panama Defense Forces and is the de facto head of government in Panama. I am concerned by these accusations, especially inasmuch as I have received similar reports coming from sources in other countries which parallel the sworn testimony with regard to the CIA furnishing similar information on other Senators.

On February 18, during a closed hearing with CIA Director William Webster, I presented Judge Webster with a written request for an internal investigation of Mr. Blandon's charges. Specifically, I asked that an internal investigation be conducted and all employees in contact with Panamanian Government or military officials be questioned.

It was interesting, Mr. President, to note that on the day of Mr. Blandon's charges, the CIA denied that it furnished any information to Noriega. However, I have learned that after this denial was issued, the agency made inquiry to its field offices about whether such actions indeed might have taken place.

These are serious charges, and they raise significant questions about the integrity of U.S. intelligence operations. Indeed, many of Mr. Blandon's charges bring into focus questions about the CIA's involvement in other aspects of United States-Panama relations.

In all likelihood, these issues will need to be addressed by the Committee on Foreign Relations in future hearings with appropriate representatives of the intelligence community.

Mr. President, I ask unanimous consent that a copy of my letter to the Director of Central Intelligence and a similar letter to the Director of the Federal Bureau of Investigation be printed in the RECORD at the conclusion of my remarks.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, February 17, 1988.

Hon. WILLIAM WEBSTER,
Director of Central Intelligence,
Washington, DC.

DEAR DIRECTOR WEBSTER: As you know, the Committee on Foreign Relations received very significant sworn testimony last week that indicated that the CIA and the National Security Council have maintained, and/or furnished to certain Panamanian officials, information on certain Members of Congress and their staffs. Since you are charged with responsibility for all agencies

under the National Security Act of 1947, as amended, I am writing to you to address these issues.

Inasmuch as Mr. Jose Blandon has appeared at the request of U.S. law enforcement agencies as a witness in major criminal procedures, his credibility appears to be high. Additionally, I have received similar reports coming from sources in other countries which parallel the sworn testimony with regard to the CIA furnishing similar information on other Senators.

I have no fear of correct information maintained on me; nonetheless, it is improper and illegal for the CIA to maintain such files. This is especially so inasmuch as the CIA has access to background check files, which include much uncorroborated data, for all security clearances.

Should a situation ever develop in which information, particularly unevaluated information, is transferred to another government, thereby interfering with the constitutional responsibility of Members of Congress and their staffs, it calls into question the integrity of our intelligence security institutions.

For these reasons, I submit the following questions, answers to which I hope can be provided in unclassified form. In answering these questions, please do not rely on files alone, since the information allegedly passed may have been passed back channel, without files being maintained. It is imperative that an internal investigation be conducted and all employees in contact with Panamanian government or military officials be questioned.

Has any employee, contract employee, or agent of the CIA—or any other entity associated with it, including other agencies under the National Security Act of 1947, as amended—ever maintained information—including biographies, reports of activities, summaries of political philosophy, or other information—on Members of Congress or their staffs? If so, which persons, when, and under what circumstances?

Has any employee, contract employee, or agent of the CIA—or any other entity associated with it, including other agencies under the National Security Act of 1947, as amended—ever furnished verbal or written information officially or unofficially on Members of Congress or their staffs to any official of a foreign government, and specifically to the government of Panama or the Panama Defense Forces under General Manuel Noriega? If so, which persons, when, and under what circumstances? (Interestingly, I understand that after the CIA publicly denied Blandon's testimony, an inquiry was made to CIA field offices and to NFIB agencies querying whether the denial was accurate. Please include a copy of this message and all responses.)

Because of your previous association with the Federal Bureau of Investigation, I would also ask the following questions, also to be answered in unclassified form to the maximum extent possible.

Did the FBI ever turn over to the CIA or other intelligence agencies any information on Members of Congress or their staffs?

Has the FBI ever initiated wiretaps or surveillance on me or members of my staff, with or without warrant? If so, when, for what reasons, and under what legal authority?

Sincerely,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, February 17, 1988.

Hon. WILLIAM SESSIONS,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR DIRECTOR SESSIONS: As you know, the Committee on Foreign Relations received very significant sworn testimony last week that indicated that the CIA and the National Security Council have maintained, and/or furnished to certain Panamanian officials, information on certain Members of Congress and their staffs.

Inasmuch as Mr. Jose Blandon has appeared at the request of U.S. law enforcement agencies as a witness in major criminal procedures, his credibility appears to be high. Additionally, I have received similar reports coming from sources in other countries which parallel the sworn testimony with regard to the CIA furnishing similar information on other Senators.

Because of these concerns, I ask you the following questions, answers to which I hope can be provided in unclassified form.

Did the FBI ever turn over to the CIA or other intelligence agencies any information—including biographies, reports of activities, summaries of political philosophy, or other information—on Members of Congress or their staffs?

Has the FBI ever initiated wiretaps or surveillance on me or members of my staff, with or without warrant? If so, when, for what reasons, and under what legal authority?

Sincerely,

JESSE HELMS.

S. 1586, THE TECHNOLOGY TO EDUCATE CHILDREN WITH HANDICAPS ACT

Mr. ADAMS. Mr. President, I rise today in support of S. 1586, the Technology to Educate Children With Handicaps Act. I applaud the work of Senator KERRY and his staff in developing this legislation and support their commitment to promoting a discussion of efforts for improving access to assistive technology.

While it is often said that there are few things more fascinating than the potential of the human mind, it is also true that there are few things more tragic than the failure to develop this potential. It is truly tragic, therefore, that the tremendous resource represented by the capable minds of millions of handicapped individuals goes untapped due to the inability of educators and loved ones to achieve a sufficient level of communication. Still, other handicapped individuals are unable to participate in a normal environment due to disabilities that prevent them from maintaining the necessary posture for following classroom activities.

Fortunately, recent advances in modern science have lead to the development of technology which assists disabled individuals in overcoming these barriers as well as assisting them in the pursuit of educational achievement. This new technology includes everything from specially adapted computers that give disabled individuals the ability to read, write and speak to computerized voice synthesizers that read aloud the messages printed on a video screen. Further advances in specialized equipment, wheelchairs and assistive apparatus have made it possible for handicapped individuals to participate in the classrooms of public and private institutions on an equal basis with the rest of our Nation's student population.

With the advent of this advanced technology, we must now focus our attention on the need to improve the access to and use of these devices. Presently, handicapped students and parents are blocked by a number of barriers which prevent them from gaining access to assistive technology. While it is often the case that the cost of such equipment is prohibitively expensive for families, more children suffer from limited access because neither they nor their teachers nor their parents have been exposed to the availability and application of developing technology. This legislation addresses these issues through the establishment of a network of assistive device resource centers in each State. These centers are designed to coordinate information, and provide training and financial mechanisms that will expose students and educators to the availability of assistive devices and the means for applying this technology to their educational environment. Followup counseling will also be available through the resource centers which will assist children to readily adjust to this advanced technology.

In order to help individuals with handicaps to achieve their greatest degree of independence and productivity, we must ensure that they receive an education that best reflects their future working and living environments. Access to assistive technology provides disabled students the opportunity to participate in regular classroom activities and exposes them to other handicapped and nonhandicapped students. Such interactions are essential to the development of critical interpersonal skills that are necessary for adjustment to life beyond the classroom. The ability to practice implementation of these assistive devices in an educational environment will assist them in applying their skills to future employment settings and independent living situations. Most significantly, access to assistive technology will help bridge the educational gap that many disabled children face and aid them in developing the depth of their intellectual capacity.

While I feel we must address the need to improve access to assistive technology for disabled individuals of all ages, I appreciate Senator KERRY's efforts on behalf of handicapped children. I am happy that we have begun

to entertain a positive discussion in this area and I look forward to adding my voice in support of future initiatives that promote the use of assistive technological devices.

THE SPIRIT OF DAKOTA AWARD—A TRIBUTE TO THE WOMEN OF SOUTH DAKOTA

Mr. PRESSLER. Mr. President, this Friday evening in Huron, SD, a special tribute will be held honoring the many women who helped build South Dakota. The occasion is the presentation of the first annual "Spirit of Dakota" award to Winifred Lorentson of Miller, SD.

The Spirit of Dakota award will be represented by a 9-foot statue of a pioneer woman, sculpted by Dale Lamphere, a South Dakota artist from the Black Hills. The unveiling of this statue on Friday evening is the first statewide recognition of the important role women played in shaping South Dakota. I personally feel this recognition is long overdue and commend all of those responsible for putting this event together.

Mr. President, over 70 women from across South Dakota were nominated for this prestigious award. These women are all winners in their own right. I rise today to honor Mrs. Lorentson in particular, and all of the nominees who have contributed so much to the great State of South Dakota and its citizens.

Mr. President, I ask unanimous consent that an article which appeared in the October 25, 1987, Huron Daily Plainsman be printed in the RECORD. It describes the life and many contributions of Mrs. Lorentson in further detail and includes a list of all of the nominees who were considered for this prestigious award.

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

A LIFE OF GIVING TO OTHERS DESCRIBES FIRST SPIRIT WINNER—WINIFRED LORENSTON

The Spirit of Dakota sculpture portrays a pioneer woman facing the future, undaunted by adversity.

The first woman to receive an award reflecting this spirit in South Dakota is Winifred Lorentson, a former county school superintendent and single parent who still serves as a role model in the Miller community.

"I have always thought of her as the perfect lady," recalls Loretta King, who served as a teacher under Lorenston's administration.

Like the image in the sculpture, Mrs. Lorentson has been swept by the winds of the prairie and of life.

While teaching at St. Lawrence High School from 1922 until 1924 she spent 35 minutes walking from her home in Miller to the school—even through the cold winter months.

Her husband, Carl "Edwin," died early in their marriage and Mrs. Lorentson went on to raise their two sons as a single parent while serving as Hand County Superintendent of Schools for 36 years, founding the Miller Business and Professional Women's Club in 1942 and helping establish the county library.

Members of the Spirit of Dakota award committee selected the recipient from a group of 70 women nominated throughout South Dakota.

The committee included Donna Christen, chairman, and Marilyn Hoyt, vice chairman, both of Huron; Martha L. Baker, Sioux Falls; Renee Doyle, Yankton, Susan Edwards, Pierre; Carole Hillard, Rapid City; Beverly W. Lowrie, Watertown; Mary McClure, Redfield, and LInda Mickelson, Pierre.

The judging criteria required that the nominee be a "woman with roots deep in Dakota whose courage and strength of character has developed her family and community. She should also be a woman who has represented social, cultural and educational advancement for others."

The recipient was born Nov. 12, 1893, five miles south of St. Lawrence to Mr. and Mrs. William James (Lillie Williams) Davey, one of their five children. Davey came to South Dakota in 1884 and laid claim to 131 acres of land in the St. Lawrence area.

The pioneer daughter graduated from St. Lawrence Grade School in 1908. Her family later moved to Mitchell where they operated a rooming house. She graduated with a B.A. degree from Dakota Wesleyan University in 1917 and then completed post-graduate studies at the University of Chicago that summer.

Three years later she married Carl "Edwin" Lorentson while they were both teaching at Highmore High School. He became principal of Ree Heights Public School in the fall of 1921.

Due to the tuberculosis he had contracted during World War I, the couple moved to California in 1926 and then to Arizona before he died in 1930.

Mrs. Lorentson says the greatest happiness in her life was the birth of her sons, even though her first son was stillborn in 1921.

Edwin "Carl" Lorentson, born in 1926, graduated from Harvard Medical School and is a surgeon in Chicago. And William "Davey" Lorentson was born three years later. He graduated from the University of South Dakota and received an MBA degree from the University of Minnesota. He has been employed with the General Electric Company in California as a manager in finance since 1954.

Mrs. Lorentson has eight grandchildren and is looking forward to great-grandchildren in the future.

After the death of her husband, Mrs. Lorentson returned to Miller to live with her mother whom she credits with helping raise her sons.

Leaving her young sons at home, the mother began teaching home economics (her favorite subject) in Highmore in 1917 and then in Ree Heights in 1920. She then taught in St. Lawrence during 1922-24 and 1932-34.

Mrs. Lorentson received a Life Professional Diploma from the South Dakota Department of Public Instruction in 1928, the highest grade teachers credential issued by the state for individuals with a four-year degree and eight years of teaching experience.

She was elected superintendent of schools in Hand County in 1935 and was responsible for oveseeing 107 one-room schoolhouses and two parochial schools. She was honored in 1971 at the final County Superintendent's Conference in Pierre as one of two superintendents to have 36 years of service.

Her advice for today's women who are raising families by themselves is to "have a very strong church connection." Mrs. Lorentson, a member of Miller United Methodist church, says the people in her church and her faith have strengthened her.

The 93-year-old woman, who served as Sunday school superintendent for 10 years, still attends Sunday school weekly and meetings of Hope Circle. She taught Sunday school, served on the church board during two decades and served on the committee to build the new church from 1959 until the building was completed.

After more than 50 years of membership in several clubs and organizations, Mrs. Lorentson still attends meetings regularly, declaring "that every one is different."

Mrs. Lorentson has been a member of Delta Kappa Gamma Society, a society for educators, since 1950. In addition to being founding president of the BPW, she has been president of the Miller chapter of PEO, Miller American Legion Auxiliary and the Annie D. Tallent Club, an honorary society for educators.

She was worthy matron of the Miller Order of the Eastern Star Chapter and served as grand Electra of the state chapter.

Mrs. Lorentson was named delegate to the President's council on Youth, Washington, D.C., in 1950, and Merit Mother of the Year by the Miller Jaycettes in 1970.

She was admitted to Dakota Wesleyan University's Century Club in 1979 and Matthew D. Smith Club in 1976.

The educator began serving as a trustee of the Miller Public Library in 1945 and saw it converted from a city to a county library in 1948. She also served on the committee to build a new library, which was completed in 1969.

Mrs. Lorentson was presented the "Trustees of the Year" award from the South Dakota Library Association in 1978.

The community-spirited woman served as chairman for Hand County Christmas Seal Society from 1934 to 1972.

This woman of achievement credits her success as an education administrator to the loyalty and cooperation of the teachers. "The people made it as least difficult as possible. They helped in every fashion they could," recalls Mrs. Lorentson with the serenity and efficiency remembered by the teachers and pupils.

Mrs. Lorentson beams as she speaks about the country schools: "it was a wonderful learning place. A wonderful place where children learned to help each other."

One of her former students recalls "we never were afraid to have her come visit our school. In fact, we loved to have her come."

The only grimace to cross the face of Mrs. Lorentson occurs when she tells of the two-year elections required of the county superintendents.

"But it was just a formality for Mrs. Lorentson," Mrs. King praises. "No one had the nerve to run against her."

Glorian Blackburn of Miller, a former teacher, tells of how the administrator saw to the needs of her teachers. "I remember her efficiency and how she kept current in education. She provided us with workshops and updated curriculum."

James Hart of Miller grew up next door to Mrs. Lorentson who still lives in her own home, the same one she has lived in for more than 50 years.

"I remember my parents talking about her," said Hart, who was among her nominators. "They would comment on her walking to St. Lawrence every day to teach school and how she raised two outstanding sons by herself. I have never heard anyone say anything derogatory about her, in fact, when people talk about Mrs. Lorentson, all they have is praise. I have never heard her criticize anybody. She always has nothing but good to say, regardless of the situation."

The Miller woman, who has been admired by people throughout her life, says her own role model was her mother's sister. Flora Williams, who was also her schoolteacher.

Although teaching was about the only career open to young women during Mrs. Lorentson's youth, she says the teaching field still appeals to her today. "There's so many ways you can open the world up to children now."

Mrs. Lorentson is still going strong although she admits to slowing down a little during the past year. She has help with housekeeping, receives Meals on Wheels and has someone stay with her overnight as well as check on her frequently during the day.

A person whose life has and still does revolve around people, Mrs. Lorentson says she has no hobbies. What others might see as hobbies today were a matter of living for her. For example, she has always sewn. "But that was for me and my family," Mrs. Lorentson dismisses.

The award recipient is modest about receiving the Spirit of Dakota Award, the first such recognition for any woman in the state.

"You can't live to be almost 100 without doing something good," chuckles the woman who says her goal in raising her sons was to "keep them happy." And the way she has kept herself happy is "not to think of myself too much."

An incident that occurred when Mrs. Lorentson was trekking through the snow as a young teacher best expresses her perseverance and positive outlook on life.

"Sometimes the snow got awfully deep. One day I met a man who told me 'I don't think I would go any further if I were you.' I said 'If it's any worse than what I've been through I want to see it.' "

1987 "SPIRIT OF DAKOTA" AWARD

Mrs. Carol Ahlfeldt, Volga; Marie P. Anderson, Hurley; Helen Fischer Aplan Maryhouse, Pierre; Rose Marie Austin, Centerville; Doris Becker, Humboldt; Anna Haugan Berdahl, Sioux Falls; Joanne Bieber, Bowdle; Catherine Bischoff, Huron; Florence M. Bruhn, Watertown; Florence M. Carman, Carthage; Marian Cramer, Bryant; Lynne DeLano, Springfield; Lucille Disbrow, Centerville; Mrs. Lenore Foster, Golton; Adeline Gnirk, Lucas; Blanche Grossenburg, Winner; Hazel Harmon, Huron; Marie Halverson, Milbank; Linda Hasselstrom, Hermosa; Nettie R. Hauck, Mobridge; Dr. Julie Hegstram, Sioux Falls; LaVonne Hofer, Huron; Margie Hovorka, Tyndall; Mrs. Rosella Jackson, Mobridge; Willmeta Johnson, Keystone; Mildred S. Johnston, Sioux Falls; Marjorie Kittlesland, Melette; Alice Kundert, Pierre; Nancy Lammers, Madison; Frances "Peg" Lamont, Aberdeen; Virginia Lardionis, Huron; Marcella R. Ryon LeBeau, Mobridge; Mary Jewel Ledbetter, Pierre; Winifred Lorentson, Miller; Edna Lucklum, Platte; Marian Lundeen, Bristol; Jeannette C. Lusk, Huron; Mrs. Vincent Madden, Huron; Vera Marghab, Watertown; Emily Madetzke, Jasper; Carol (Martin) Mashek, Sioux Falls; Rita Matthews, Wessington; Mrs. Dwight Miller, Watertown; Donna L. Mitchell, Rapid City; Hazel Murphy, Watertown; Rose Marie McCoy, Sioux Falls; Sandra McLain, Rapid City; Arleen Dare Nelson, Watertown; Betty Noem, Bryant; Lavina Norman, Burke; Barbara B. Ohleen, Webster; Bev Paschke, Redfield; Marjory Marshall Prchal, Burke; Gladys Pyle, Huron; Mrs. Mable Read, Winner; Vivian Rearick, Wolsey; Hildegard Amanda Rother, Huron; Ester Serr, Rapid City; Mrs. Cecelia Shalley, Estelline; Virginia Driving Hawk Sheve, Rapid City; Doris J. Schumacher, Brookings; Monica Slocum, Redfield; Wynn Huybler Speece, Yankton; Kay Riordan Steuerwald; Keystone; Margery A. Tauber, Watertown; Lucy Thingelstad, Holabird; Mrs. Hildreth Venegas, Sisseton; Mrs. Margaret Wingen, Canova; and Mrs. Eudora Zellers, Flandreau.

COME ON, SAM DONALDSON! SURELY YOU WEREN'T SERIOUS

Mr. HELMS. Mr. President, I was astonished last night to hear a well-known broadcast newsman use the term "freedom fighters" to describe the ANC, the African National Congress, during President Reagan's televised news conference. That description of the violent, brutal ANC by ABC's correspondent, Sam Donaldson, disclosed a fundamental lack of knowledge about the ANC, and I wondered how many unsuspecting Americans might have been misled by such false description.

Mr. President, I ask unanimous consent that the relevant episode from the President's news conference, be printed in the the RECORD.

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

SAM DONALDSON. The white minority government of South Africa has now effectively banned activities by dissenting organizations, even when those activites are peaceful. What is your view on that, and what can you do, if anything, to reverse it?

The PRESIDENT. Well, the State Department has already contacted them about that, and we are making our feelings clear that they should be working toward a multiracial democracy and not oppressing organizations, political organizations there. And we've made our feelings clear about that.

Mr. DONALDSON. Have you considered sending aid to the "freedom fighters," the ANC [African National Congress] or any other organization against this oppression, just as you send aid to other freedom fighters around the world?

The PRESIDENT. No, we have not involved ourselves in that other than things such as the sanctions and so forth. We have tried our best to be persuasive in this very difficult problem and to find a, to encourage a, better solution.

Mr. DONALDSON. What's the difference?

The PRESIDENT. Well, the difference is that we don't have an armed insurrection going as we have in some other countries, and we have a great division even among the people who are being oppressed. It is a tribal policy more than it is a racial policy, and that is one of the most difficult parts here.

Mr. HELMS. Mr. President, let's clear up any misconception in the mind of Mr. Donaldson about the African National Congress:

The ANC at its founding in 1912 was a nationalist, but non-Communist, organization for blacks in South Africa. However, in the 1940's it was transformed into a front organization for the South African Communist Party. It is widely recognized that the South African Communist Party is a Soviet line orthodox Marxist-Leninist Party completely under Moscow's guidance and control.

A declassified biography of the executive committee of the African National Congress, released in 1986, demonstrated that over half the membership of the ANC executive committee were Communists.

The flavor of the contemporary ANC—which can hardly be described as freedom loving—was provided last fall by the National Forum Foundation, a research organization originally established under the auspices of our forrmer colleague, Senator Jermemiah Denton, Republican of Alabama.

The National Forum Foundation did an excellent research paper which catalogued statements made by various members of the African National Congress with respect to the ANC's views on the Soviet Union, its relationship with the South African Communist Party, and revolutionary violence. The paper presents the ANC's views in its own words, and was carefully researched with newspaper and other sources footnoted.

Perhaps Mr. Donaldson and other journalists would be considerably enlightened by these statements which clearly reveal the violent, pro-Soviet, pro-Communist, nature of the African National Congress.

Mr. President, this is the organization, lest we forget, that has engaged in the horrible practice of "necklacing," by which hundreds and hundreds of South African blacks have been subjected to the most brutal and gruesome deaths—tires, filled with gasoline, placed around their necks, and then set afire.

Mr. President, I ask unanimous consent that the article, "The Ideology of the African National Congress and the Future of South Africa," be printed in the RECORD at the conclusion of my remarks.

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

OCTOBER 1987.

THE IDEOLOGY OF THE AFRICAN NATIONAL CONGRESS AND THE FUTURE OF SOUTH AFRICA

In the ongoing debate over the situation in South Africa, much attention has been focused on the brutal and repressive nature of the South African regime. Little attention, however, has been given to the ideology of the opposition, specifically the most vocal and radical of the opposition: the African National Congress (ANC).

Using numerous sources, we have compiled a collection of ANC statements, all of which are identified to allow verification. These statements have been classified into 3 areas, allowing an examination of the ANC's views on: (1) the Soviet Union; (2) the ANC's relationship with the South African Communist Party (SACP); (3) revolutionary violence.

This collection is not intended to be a comprehensive survey of ANC ideology. However, we believe that the consistent and unambiguous nature of these statements warrant serious attention when addressing the beliefs of the ANC.

SELECTED QUOTATIONS

"In Soviet Russia genuine power of the people has been transformed from dreams into reality."—Winnie Mandela, *Pravda*, February 14, 1986.

"The CPSU [Communist Party of the Soviet Union] program calls for the further broadening of cooperation between the Soviet Union and the other socialist countries. This is of tremendous importance in strengthening the entire socialist community, which is the bulwark of peace on earth."—Alfred Nzo, *Kommunist*, No. 6, 1986.

"The ANC speaks here today, not so much as a guest invited to address a foreign organization. Rather we speak of and to our own."—Oliver Tambo, Speech at the 60th Anniversary of the South African Communist Party; *African Communist*, No. 87, fourth quarter, 1981.

"Those who dream of breaking the life-giving alliance between the ANC and the SACP [South African Communist Party] will strike rock."—*Sechaba*, September, 1985.

"All true South African democrats refuse to denounce the Communist Party."—Oliver Tambo, in *New York Times*, June 24, 1986.

"With our necklaces, we shall liberate this country."—Winnie Mandela, in *Washington Post*, April 13, 1986.

"If there were four million of us [black South Africans] left [out of 17 million] after the revolution, that would be better than the present situation."—Johnny Makatini, in *New York Times*, October 9, 1986.

I. THE SOVIET BLOC

"Within this last 60 years and before our very eyes, the Great October Socialist Revolution broke out to change the course of human history for all time."—Oliver Tambo, *The Building of a Nation*, 1972.

"Long live the Communist Party of the Soviet Union!"—Oliver Tambo, March 1976 Speech in Moscow; in the *New York City Tribune*, February 25, 1985.

"South African Revolutionaries deeply appreciate the all-round assistance rendered them by the socialist countries headed by the Soviet Union."—Yusuf Dadoo, *World Marxist Review*, December, 1982.

"The ANC has been a consistent champion of the cause of world peace, and voices its full support for recent Soviet peace initiatives which are aimed at making this planet a secure place."—Alfred Nzo, *Sechaba*, January 1984.

"The Socialist countries remain a solid pillar of support to our national liberation struggle."—Oliver Tambo, *Sechaba*,—March, 1984.

"We recognize instead that the Soviet Union and other socialist countries are our dependable allies, from whom no force is going to succeed in separating us."—*Sechaba*, August, 1984.

"Cuban internationalism is at this very moment helping to defend our popular revolutions in Angola, Ethiopia, Nicaragua, to mention but a few, and the blood of Cuban patriots and internationalists flowed recently on the same soil as that of Grenadian patriots in defense of the honor and sovereignty of the heroic island of Grenada against the criminal invasion of that small island by American imperialism."—Alfred Nzo, *Sechaba*, September, 1984.

"The ANC invariably stresses that the socialist countries and all democratic, progressive forces which help the oppressed masses of South Africa in their struggle against the apartheid regime at home and against imperialist pressure from abroad, are friends we can rely on."—Alfred Nzo, *World Marxist Review*, December, 1984.

"* * * the democratic, anti-feudal and anti-imperalist revolution in Afghanistan has been saved with the support of the Soviet Union."—Oliver Tambo, Political Report to the Second National Consultative Conference of the ANC, June 16-23, 1985.

"The ANC has received and continues to receive international support and solidarity from a variety of sources. We must today acknowledge especially, with appreciation, the very significant support we receive from the socialist countries. You have mentioned many of these countries—all of them without exception have given freely by way of supporting our struggle and meeting our demands."—Oliver Tambo, Political Report to the Second Consultative Conference of the ANC, June 16-23, 1985.

"As a movement, we need to be conscious of this all the time and protect our friendship and cooperation with the socialist community of nations very jealously."—Oliver Tambo, Political Report to the Second National Consultative Conference of the ANC, June 16-23, 1985.

"It would be a grave error on our part if we did not, at this point, refer, however briefly, to the socialist countries. The period we are discussing once more confirmed these countries as allies we can always rely upon, a secure rear base without which our struggle would be even more difficult and protracted."—Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"To this day, the socialist countries continue to play an important supporting role in many aspects of our work. Always willing to consider and respond to our requests, every day they demonstrate an unwavering commitment to see our revolution through to the end."—Documents of the Second Consultative Conference of the ANC, June 16-23, 1985.

"We highly appreciate the fraternal assistance and support rendered to us by socialist countries."—Oliver Tambo, TASS News Service, July 8, 1985.

"The Great October Socialist Revolution [Bolshevik Revolution] introduced and unleashed new forces in the world, including within South Africa itself, and the African National Congress was to enrich itself from the experience of the people who carried the banner of that revolution."—Oliver Tambo, Radio Broadcast Maputo; Foreign Broadcast Information Service, August 24, 1985.

"A determined effort was set afoot to roll back socialism, to reverse the victories of the national liberation movements and to force the peoples of the world to succumb to the wishes of imperialism. Hence we saw the complicated situation that arouse in Poland. The offensive against Democratic Afghanistan continued and intensified."—*Sechaba*, January, 1986.

"Official contact between the ANC and the Soviet Union goes back as far as 1927."—Oliver Tambo, *Umbesenzi*, vol. 2, no. 1, 1986.

"In Soviet Russia genuine power of the people has been transformed from dreams into reality."—Winnie Mandela, *Pravda*, February 14, 1986.

"I have waited for long years to personally send my militant salute to the land of the Soviets and thank it for its fraternal support."—Winnie Mandela, TASS interview; in The *Wall Street Journal*, February 18, 1986.

"Our fight for freedom is inseparably linked with the world-wide movement for peace, the standard-bearer of which is your great country. We, as a peace-loving and freedom-cherishing people, have launched an offensive against the most vicious enemy of peace—imperialism—whose guard in our part of the world is the criminal apartheid regime. Our just struggle pursues a humane aim—to create a peaceful democratic state which would stand in the ranks of the forces of progress. The Soviet people's support for our course is inspiring and revitalizes strength."—Winnie Mandela, TASS interview; quoted in *Moscow News*, no. 14, February 18-21, 1986.

"The CPSU [Communiust Party of the Soviet Union] program calls for the further broadening of cooperation between the Soviet Union and the other socialist countries. This is of tremendous importance in strengthening the entire socialist community, which is the bulwark of peace on earth."—Alfred Nzo, *Kommunist*, no. 6, 1986.

"The entire significance of the efforts of the Soviet Union and other members of the socialist community who, despite the obstacles erected by the aggressive imperialist circles, are trying to protect mankind from the threat of nuclear catastrophe, are particularly clear against the background of the imperialist policy of arms race and threat to peace."—Alfred Nzo, *Kommunist*, no. 6, 1986.

"In my view, it is necessary to emphasize above all in it [the CPSU programme] as in its previous edition, the task of further growth of the well-being of the Soviet people remains pivotal. This is the permanent trend of the entire social policy of the Soviet Union. All of this is in sharp contrast with the situation of the working people in the capitalist world.—Alfred Nzo, *Kommunist*, no. 6, 1986.

"We receive this high and honorable distinction, aware that it represents the confidence that the Communist Party, government and people of Cuba have bestowed on the African National Congress."—Oliver Tambo, receiving the Playa Giron Award from Fidel Castro; *Sechaba*, June 1986.

"The ANC went throughout the world asking for weapons. The socialist countries gave us weapons, training facilities and all other things."—Francis Meli, in *The New York Times Magazine*, October 12, 1986.

"We discussed forms of diplomatic support and material assistance and training for our cadres. Material assistance must include wherever possible the supply of weaponry to us."—Oliver Tambo, on his discussion with Mikhail Gorbachev; in *The Independent* (U.K.) November 10, 1986.

II. THE SOUTH AFRICAN COMMUNIST PARTY

"But finally, let us once again greet our South African Communist Party [SACP]. Long live the SACP!"—Oliver Tambo, Speech at the 60th Anniversary of the

SACP; *African Communist*, no. 87, fourth quarter, 1981.

"The ANC speaks here today, not so much as a guest invited to address a foreign organization. Rather we speak of and to our own."—Oliver Tambo, Speech at the 60th Anniversary of the SACP; *African Communist*, no. 87, fourth quarter, 1981.

"It is often claimed by our detractors that the ANC's association with the SACP means that the ANC is being influenced by the SACP. That is not our experience. Our experience is that the two influence each other." —Oliver Tambo, Speech at the 60th Anniversary of the SACP; *African Communist*, no. 87, fourth quarter, 1981.

"And members of the ANC fully understand why both the ANC and the SACP are two hands in the same body, why they are two pillars of our revolution."—Moses Mabhida, *African Communist*, no. 87, fourth quarter, 1981.

"The relationship between the ANC and the SACP is not an accident of history."—Oliver Tambo, *African Communist*, no. 87, fourth quarter, 1981.

"It [the SACP] fully supports the same programme of liberation as the ANC for the seizure of power."—Moses Mabhida, *African Communist*, no. 87, fourth quarter, 1981.

"Ours [the ANC and the SACP] is not merely a paper alliance . . . it is a living organism that has grown out of struggle."—Oliver Tambo, Speech at the 60th Anniversary of the SACP; *African Communist*, no. 87, fourth quarter, 1981.

"Our history [ANC and SACP] has shown that we are a powerful force because our organizations are mutually reinforcing."—Oliver Tambo, Speech at the 60th Anniversary of the SACP; *African Communist*, no. 87, fourth quarter, 1981.

"I have the great pleasure today of repeating on behalf of the African National Congress and our people in general, our congratulations to Comrade Moses Mabhida General Secretary of the SACP. We utter these congratulations with a sense of confidence, knowing his background, knowing his role in our struggle especially in the discharge of his tasks in the ANC, his absolute loyalty to his understanding—profound understanding—of the character of the South African situation and its problems."—Oliver Tambo, *African Communist*, no 87, fourth quarter, 1981.

"Our Party's relationship with the ANC is based on mutual trust, reciprocity, comradeship in battle and a common strategy for national liberation. Our unity of aims and methods of struggle are a rare instance of positive alignment between the forces of class struggle and national liberation."—Moses Mabhida, *African Communist*, no. 87, fourth quarter, 1981.

"Comrades, our policy is based on a long association with the ANC which reflects our Party's attitude towards national liberation. We are clear about the priorities of our struggle, first National Democratic Revolution and then an advance toward socialism."—Moses Mabhida, *African Communist*, no 87, fourth quarter, 1981.

"Our Party's stand as far as national liberation goes in South Africa is quite clear. It fully supports the same programme of liberation as the African National Congress, for the seizure of power and black majority rule. The National Liberation Movement, to quote Lenin, 'is a necessary ally of the proletarian revolution.' "—Moses Mabhida, *African Communist*, no. 87, fourth quarter, 1981.

"* * * by then [1969] no significant differences existed between the two organizations [the SACP and the ANC] on the immediate content, strategy and tactics of the South African revolution."—Sol Dubula, *African Communist*, no. 87, fourth quarter, 1981.

"Today the ANC and the SACP are embraced in the common front of liberation. In the words of the ANC at the 1969 joint meeting of representatives of the two leaderships, these organizations constitute 'the two pillars of our struggle.' "—Sol Dubula, *African Communist*, no. 87, fourth quarter, 1981.

"The national liberation movement in South Africa largely owes its present scope and clarity of perspectives to our party's tireless activity in the organizational, political and ideological spheres. The well-thought out and clear-cut concepts and tenets based on the theory of scientific socialism are now no longer the exclusive asset of the communists, but have been variously spread to broad sections of the fighters of liberation. Many communists have risen to leading posts in various sectors of the national liberation movement. We were also a party to the decision to go over to armed struggle. There are many communists among the Umkhonto We Sizwe combat units, including their commanders."—Yusuf Dadoo, *World Marxist Review*, December, 1982.

"Individual members of the Communist Party are like any member of the ANC."—Oliver Tambo, interview with *The Guardian* (U.K.), August 6, 1983.

"Today the ANC and the SACP have common objectives . . . we share the strategic perspectives of the task that lies ahead."—*Umsebenzi*, vol. 1, no. 1, 1985.

"The national revolution . . . is the special province of the oppressed nationalities; the socialist revolution takes the form of class struggle led by the working class of all national groups. The two revolutions co-exist . . . They interact . . . They are closely knit as Siamese twins. To separate them would need a surgical operation which might kill or cripple both."—*Sechaba*, June, 1985.

"From the earliest days communists have worked unstintingly to strengthen the ANC."—Message from the SACP to the ANC Consultative Conference; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"Dear Comrades and Brothers: your victories are our victories. Let us march forward side by side to freedom. Long live the ANC."—Message from the SACP to the ANC Consultative Conference; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"The South African Communist Party has a long history of association with the ANC—an alliance which has now developed into a brotherly alliance."—Message from the SACP; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"The South African Communist Party sends warmest fraternal greeting to the 1985 Consultative Conference of the African National Congress and wishes it every success in its deliberations. Your conference marks an historical milestone along the road to liberation and will speed up the pace of the liberation forces in their forward march to inevitable victory."—Message from the SACP; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"Those who dream of breaking the life-giving alliance between the ANC and the SACP will strike rock."—*Sechaba*, September, 1985.

"The alliance between the Communist Party and the ANC has no secret clauses."—Joe Slovo, in *Washington Post*, February 1, 1986.

"The communist Party is the only party that stands behind us."—J.J. Gumede, *Umsebenzi*, vol. 2, no 1, 1986.

"The ANC was established in 1912 and the South African Communist Party in 1921 and so there has been an overlapping of membership all along the line."—Oliver Tambo, in *New York Times*, June 24, 1986.

"It is true that the ANC has members of the Communist Party."—Oliver Tambo, in *New York Times*, June 24, 1986.

"All true South African democrats refuse to denounce the Communist Party."—Alfred Nzo, in the *Washington Post*, August 2, 1986.

"There isn't such a fundamental divide between what people call nationalists and Communists in the South African scene."—Joe Slovo, in the *New York Times Magazine*, October 12, 1986.

"If, today, the South African Communist Party can look back with pride at its contribution to the struggle, it is precisely because its history, with all of its ups and downs, is a reflection of this process. It is a process which did not unfold in a vacuum, and, more especially, it is one which cannot be separated from the emergence and growth of the African National Congress."—Joe Slovo, in *Washington Post*, February 1, 1987.

"Those who know something of our history will also know that cooperation between the ANC and the SACP began long before they were both driven underground. During the days of legality neither Communists who were also active in the ANC nor ANC members who were active in the CP had reason to hide their political identities."—Joe Slovo, in *Washington Post*, February 1, 1987.

III. VIOLENCE

"Our movement, as other revolutionary movements before it, has a responsibility to take advantage of such moments when the activity of the masses is increased a thousand-fold, when the masses are prepared to fight to the finish for the destruction of their adversary."—Documents of the Second Consultative Conference of the ANC, June 16-23, 1985.

"Indeed, the Conference has been described as a Council of War precisely because it charted the way forward to the intensification of armed struggle. It decided that the distinction between 'hard' [military] and 'soft' [civilian] targets should disappear. This is not a new idea."—Documents of the Second Consultative Conference of the ANC, June 16-23, 1985.

"But what I have said here is that in the course of intensification of the struggle the distinction between soft [civilian] and hard [military] targets—buildings and people—will naturally disappear. In the intensified situation, in the intensified conflict, in the course of escalation, that is not going to be avoidable."—Oliver Tambo, Communique; Second National Consultative Conference of the ANC, June 16-23, 1985.

"I will summarize the position taken by the conference in these terms: that the struggle must be intensified at all costs."—Oliver Tambo, Communique; Second National Consultative Conference of the ANC, June 16-23, 1985.

"The distinction between 'soft' [civilian] and 'hard' [military] is going to disappear in an intensified confrontation, in an escalat-

ing conflict."—Oliver Tambo, Communique; Second National Consultative Conference of the ANC, June 16-23, 1985.

"We hope that this is a very, very solid beginning of the era of popular war—the people's war that must involve large numbers of the masses participating with them, playing a definite role."—Oliver Tambo, Radio Freedom; Foreign Broadcast Information Service, July 25, 1985.

"White residential areas are the next target in the battle against apartheid."—Oliver Tambo, in *London Sunday Times*, September 8, 1985.

"The ANC will no longer try to prevent death or injury to white civilians in South Africa and expects a bloodbath there."—Oliver Tambo, in *Newsweek*, September 9, 1985.

"Life in townships is no longer like it was before . . . here collaborators and informers live in fear of petrol, either as petrol bombs being hurled at their home and reducing them to rack and ruin, or as petrol dousing their treacherous bodies which are set alight and burned to a charred and despicable mess . . . lucrative it still is to sell out, but it carries the immediate hazard of having one's flesh and bones being reduced to unidentifiable ashes."—Cassius Mandela, *Sechaba*, November, 1985.

"With our necklaces, we shall liberate this country."—Winnie Mandela, in the *Washington Post*, April 13, 1986.

"Whatever the people decide to use to eliminate those enemy elements is their decision. If they decide to use necklacing, we support it."—Alfred Nzo, *London Sunday Times*, September 14, 1986.

"If there were only four million of us [black South Africans] left [out of 17 million] after the revolution, that would be better than the present situation."—Johnny Makatini, in the *New York Times*. October 9, 1986.

"It is also vital that each mass revolutionary base must have its combat forces, which will act both to defend the people and to mount armed attacks against the enemy beyond the given area and throughout the country."—Oliver Tambo, in the *New York Times*, January 9, 1987.

"We cannot say we won't attack 100 soldiers because there are 10 civilians there. There's nothing new in a war situation about civilians being killed."—Oliver Tambo, in *Washington Post*, January 29, 1987.

IV. SOURCES

African Communist is the official journal of the South African Communist Party.

Sol Dubula is the General Secretary of the South African Communist Party.

Yusuf Dadoo is a leader in the South African Communist Party.

Foreign Broadcast Information Service is a U.S. government organization which monitors foreign radio and television broadcasts.

Kommunist is the theoretical journal of the Central Committee of the Communist Party of the Soviet Union.

Johnny Makatini is the African National Congress Representative to the United Nations.

Cassius Mandela is the daughter of Nelson Mandela and a youth leader in South Africa.

Winnie Mandela is the wife of ANC leader Nelson Mandela, and is considered one of the major leaders within the African National Congress.

Francis Meli is a member of the National Executive Committee and Editor of the ANC's official magazine *Sechaba*.

Moscow News is a publication of the Soviet government.

Alfred Nzo is the General Secretary of the African National Congress.

Pravda is the daily paper of the Communist Party in the Soviet Union.

Pretoria News in an independent liberal newspaper in Pretoria, South Africa.

Radio Freedom is the official ANC radio station, based in Addas Abbis, Ethiopia.

Sechaba is the official publication of the African National Congress, published in the German Democratic Republic.

Second Consultative Conference of the ANC was a meeting of high-level ANC officials. All text taken from ANC publications available from ANC offices in London. Joe Slovo is the former Chairman of the South African Communist Party and is a leading military strategist for the military wing of the ANC.

Oliver Tambo is the President of the African National Congress.

TASS is the official Soviet press agency.

Umkhonto We Sizwe is the military wing of the African National Congress.

Umsebenzi is an occasional newsletter of the South African Communist Party.

World Marxist Review is a monthly journal published in East Germany.

INAUGURATION OF SOUTH KOREAN PRESIDENT ROH TAE WOO

Mr. ROCKEFELLER. Mr. President, this is an historic day in South Korea—the inauguration of President Roh Tae Woo.

After a divisive and bitter election campaign last year, Roh Tae Woo emerged as the victor with a plurality of only 36 percent. In a break with tradition, he immediately established national reconciliation as his principal goal. He extended himself to the losing candidates, attempting to draw them into the transition process. He has signaled repeatedly to the Korean people that he would not be a President removed from the citizenry. Through simple gestures such as carrying his own briefcase, as well as more substantive measures such as naming as his Prime Minister former Seoul National University President Yi Hyon-chae, a nonpolitician of indisputable integrity, Roh Tae Woo has demonstrated his commitment to humanizing and democratizing the Presidency. The response to the Korean people during this period of dramatic change has been extremely positive and constructive.

The next step in the political process will be National Assembly elections. I look forward to a hard-fought campaign and, once again, free and honest elections.

Of great concern to the United States is our bilateral relationship with South Korea. I can say that it has never been stronger or more important. This is a critical time for both countries, and the emergence of a democratic government in Korea can only serve to strengthen our bonds and contribute to stability on the Korean Peninsula which is so vital to us.

I met with President Roh Tae Woo in Seoul last month and found him most impressive. He was deeply concerned about Korea's relationship with the United States, yet saw great opportunities for us both. I look forward to working together with President Roh and his new government to further our mutual interests in the Asian region.

NORIEGA'S DISMISSAL

Mr. HELMS. Mr. President, today the President of Panama has formally asked Panama's military dictator, General Noriega, to step down. At the moment, the situation is uncertain. It is not clear whether General Noriega will relinquish power, and return Panama to the Panamanians.

I hope for the sake of the people of Panama that General Noriega goes peacefully. He has trampled upon the hopes of the Panamanian people for freedom and democracy, using his position of power for his own personal accumulation of illegal wealth. He has catered to the international banking system on the one hand, and to the Marxists and Communists of Central America on the other. He has callously indulged in drug trafficking, gun-running, and every other kind of illegal activity for private gain.

Mr. President, it is now clear that General Noriega has lost the support of every segment of the U.S. Government, with the possible exception of the Central Intelligence Agency. The CIA has consorted with this notorious individual for a decade or more, even though his aims and methods were clear to any decent observer. It is time for the CIA to review its policies and methods in supporting corrupt, left-of-center power brokers in the Third World. Such activities undermine freedom and strengthen the grip of Marxist regimes around the world.

I have long been deeply concerned, for over a decade, about the criminal and subversive activities of Panama's dictator, General Noriega.

The damage that General Noriega has done to the security of the United States and to the security of the hemisphere as a whole may never be fully known. The damage that Noreiga has done is massive and may never be repaired in full.

Mr. President, it is no exaggeration to say that General Noreiga has betrayed the security of the American republics to the masters of the Kremlin and their Cuban viceroy, Fidel Castro.

Not only has he betrayed the military security of the hemisphere, he has betrayed millions of the families throughout the hemisphere who suffer from the terrible effects of drug

abuse. General Noriega has compromised the public health of every republic in the New World through his dealings with the Colombian based cocaine-Mafia.

On February 5, the U.S. Attorney for the Southern District of Florida announced the unsealing of a 12-count indictment returned the day before by a Federal grand jury in Miami.

The indictment charges Noriega with exploiting his official position as head of the intelligence section of the Panamanian National Guard and then as commander in chief of the Defense Forces of the Republic of Panama to receive payoffs in return for assisting and protecting international drug traffickers in conducting narcotics and money laundering operations in Panama.

According to the indictment, Noriega protected cocaine shipments flown from Medellin, Colombia, through Panama to the United States; arranged for the transshipment and sale of ether and acetone, including such chemicals previously seized by the Panamanian Defense Forces, to the Medellin Cartel; provided a refuge and a base for continued operations to the Medellin Cartel after the murder of the Colombian Minister of Justice; agreed to protect a cocaine laboratory being constructed in Darien Province, Panama; and assured safe passage of millions of dollars of narcotics proceeds into Panamanian banks.

Among the specific acts of racketeering charged in the indictment are the movement through Panama of in excess of 2,000 kilograms of cocaine destined for the United States and the transshipment of ether and acetone to a laboratory at a location known as "Tranquilandia" in Colombia.

Mr. President, a similar indictment was returned by a Federal grand jury in Tampa, FL, on the same day, February 5 of this year. Taken together, these indictments are serious in themselves, but do not begin to reflect the overall criminal and subversive activities of General Noriega during his career.

The distinguished Senator from Massachusetts [Mr. KERRY] and I have been working together in a bipartisan spirit on the matter of drug trafficking in the Western Hemisphere for some months. I would add that as chairman of the Subcommittee on Western Hemisphere Affairs, I held field hearings during 1984 on the matter of drug trafficking. These hearings revealed deep and serious problems confronting our Nation and the need for dramatic action.

Back in 1986, we continued our hearings and focused on Mexico and Panama. At that time, the media said the Senator from North Carolina was "Mexico bashing." They said the Senator from North Carolina was "Panama bashing." There was no end of editorials and television commentary bashing the Senator from North Carolina for having dared to examine the corrupt behavior of the Mexican and Panamanian regimes.

Mr. President, who was right? The media or the Senator from North Carolina? Events have proven this Senator was fully justified in his investigations of the Panamanian dictator and his role in international drug trafficking. I have no doubt that events will do likewise with respect to Mexico.

I should point out that the distinguished Senator from Massachusetts [Mr. KERRY] attended these hearings and indicated that he shared my concerns about Mexico and Panama. We agreed to work together in a bipartisan spirit in order to get to the bottom of the drug trafficking crisis in the hemisphere which is destroying family after family here at home. We agreed that we should pursue our investigations to the fullest extent and let the chips fall where they may.

Mr. President, the chips have fallen all over General Noriega, and the whole world is aware of it. He is a menace to the security of this hemisphere. He is a menace to the youth of this hemisphere.

It is time that we get the Noriega years behind us and begin to do whatever we can to help in the reconstruction of Panama. Panamanians deserve democracy. Panamanians deserve domestic tranquility and economic progress. We need to move forward together into the next century as friends, as neighbors, and as partners in the Americas.

DEMONSTRATIONS IN ARMENIA

Mr. RIEGLE. Mr. President, after 70 years, the Kremlin is finally being forced to deal with the injustices imposed by its harsh ethnic policies. In the wake of continued ethnic unrest, General Secretary Gorbachev has called for a Central Committee plenum to develop a new policy addressing the nationalities question in the Soviet Union. It's about time.

This morning's New York Times and Washington Post carry front page stories about major nationalist demonstrations in the Soviet Armenian Republic, involving tens of thousands of citizens—the latest in a series of public protests which have broken loose in the Soviet Union.

Within the last year or so, riots in Kazakhstan over the promotion of a Russian official, the proliferation of independence groups around the country, and a series of demonstrations in the Baltic states, including one occurring today in Estonia, all point to mounting nationalist feelings which are sweeping through the Soviet Republics.

In Armenia, where the largest protests ever reported in the Soviet Union are occurring, demonstrators are demanding action to address the serious pollution problem affecting their Republic. Apart from Chernobyl, pollution there from chemical factories is believed to be the most serious in the Soviet Union. They are also asking that they be reunited with their Armenian brothers and sisters in the neighboring Republic of Azerbaijan.

For 25 years, the Armenian majority living in Nagorno-Karabakh, located in the Republic of Azerbaijan, has appealed to the Soviet leadership protesting economic and cultural discrimination by the Azerbaijanis, and requesting that Nogorno-Karabakh be restored to Armenia.

Earlier this month, the local government council again asked that the region be made a part of Armenia, citing the constitutional guarantee of the right of self-determination. The Kremlin rejected the request.

Although the Armenian demonstrations differ in important ways from those occurring in the Baltic States, the common thread that connects them all is a strong sense of ethnic nationalism and a growing desire on the part of the Soviet citizens to assert greater control over their destinies.

Just last week, General Secretary Gorbachev stated that the need to develop a new nationalities policy is "the most vital, fundamental issue of our society." So far, his glasnost policies have emboldened the people to speak up for their rights, and we will be watching closely to see what this new policy envisioned by Gorbachev will bring. All freedom-loving people hope it will lead to greater respect for the rights of ethnic minorities in the U.S.S.R., and not a retrenching of the gains they have made this past year.

Mr. President, I ask unanimous consent that a series of articles concerning the Armenian demonstrations be printed in the RECORD.

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

[From the New York Times, Feb. 24, 1988]

SOVIET SAYS ARMENIAN UNREST BROKE OUT IN SOUTHERN AREA

(By Philip Taubman)

Moscow, Feb. 23—The Soviet Union today reported major Armenian nationalist disturbances in an ethnically volatile area in the southern part of the country.

The actions, including a rare show of defiance against Soviet policy by local government officials, appeared to be the most serious outbreak of nationalist protests since two days of anti-Soviet rioting shook the central Asian city of Alma-Ata in December.

The press agency Tass said there had been a "breaching of public order" in the Nagorno-Karabakh Autonomous Region, a remote mountainous area within the Azerbaijan Republic near the border with Iran.

NATIONALIST PROTESTS ARE BUILDING

Tass said part of the Armenian population, the predominant ethnic group, was demanding that the territory be attached to the neighboring Armenian Republic. The region has long been a source of dispute between the two republics.

The protests are the latest in nationalist demonstrations around the Soviet Union that have alarmed party leaders in Moscow. The protests apparently led Mikhail S. Gorbachev, the Soviet leader, to call last week for a Central Committee meeting devoted to nationalities policy, which he described as "the most fundamental, vital issue of our society."

The Government newspaper Izvestia said the Armenian protests began 10 days ago and included public rallies and school boycotts. It said they had spread to the Armenian capital, Yerevan, where a "noisy" demonstration demanded the transfer of Nagorno-Karabakh to Armenia.

Unofficial accounts reaching Moscow said that large demonstrations were held in Yerevan the last four days and that the local party leader, Karen S. Demirchyan, had appealed for calm on television Monday evening.

In an indication of Moscow's concern, Izvestia said two nonvoting members of the Politburo, Pyotr N. Demichev and Georgi P. Razumovsky, had been sent to Stepanakert, capital of Nagorno-Karabakh. There were unconfirmed reports that Vladimir L. Dolgikh, a nonvoting member of the Politburo, and Anatoly I. Lukyanov, a Central Committee secretary had been sent to Yerevan.

DEMANDS ARE REJECTED

Tass said the Central Committee had rejected demands for uniting Nagorno-Karabakh with Armenia and had called for maintaining order. Soviet officials said the decisions were made last week in a full meeting of the committee.

Izvestia reported that a group of members of the Nagorno-Karabakh Soviet, the region's legislature, approved a resolution Saturday calling for high-level consideration of the transfer of the region to Armenia.

Several factors apparently prevent the unification of Nagorno-Karabakh with Armenia, including Azerbaijani objections and a reluctance by the authorities in Moscow to adjust internal political boundries. Giving in to nationalist pressure would also be considered a dangerous precedent.

The Soviet Union is composed of more than 100 ethnic groups that were united under Soviet control in the 1920's, in some cases by force. Many remain hostile to Moscow and, encouraged by Mr. Gorbachev's calls for increased openness and democracy, have agitated for greater autonomy.

Armenians, along with Jews and ethnic Germans, have sought to emigrate to the West in greater numbers than other Soviet national groups. More than 1,000 Armenians a month have been receiving permission to emigrate since late last year. Many have moved to the Los Angeles area, where there is a large Armenian population.

Russians make up 51.5 percent of the Soviet population, but Soviet experts expect Russians will be a 49 percent minority by 2000.

The force of nationalism is viewed by some Western analysts as the most serious long-term threat to the integrity of the Soviet state.

The Government has reported incidents of nationalist protest during the last 18 months in the Baltic cities of Vilnius, Riga and Tallinn as well as the central Asian cities of Alma-Ata and Tselinograd and the Siberian area of Yakutia.

The Government today temporarily closed a Baltic republic, Estonia, to foreign diplomats and journalists. Estonia nationalist groups have called for demonstrations in the republic Wednesday to mark the 70th anniversary of Estonia independence day. The republic was independent for 20 years between the World Wars. Estonia and its sister republics, Lithuania and Latvia, were annexed in 1940.

The disturbances in Nagorno-Karabakh began Feb. 11 when leaflets started appearing around the region calling for unification with Armenia, Izvestia said.

The region is an area of arid mountains that is known for the longevity of many residents and the production of sheep, pigs, grapes and tobacco. It is composed of 126,000 Armenians, who are predominantly Christian, and 37,000 Azerbaijanis, who are Moslem.

Although the vote of the local Soviet on Saturday favoring a review of Nagorno-Karabakh's status was declared invalid because of unspecified procedural violations, a text of the resolution was printed in Russian and Armenian in the region's main newspaper, Soviet Karabakh, according to Izvestia.

Izvestia reported that Mr. Razumovsky, who is also a Central Committee secretary, said at a meeting of the local party organization in Stepanakert on Monday evening that any attempt to break Nagorno-Karabakh away from Azerbaijan was unacceptable.

The local part organization adopted a resolution that conformed with his statement, Izvestia said. Tass said the demands for secession "contradict the interests of the working people in Soviet Azerbaijan and Armenia and damages interethnic relations."

[From the Washington Post February 24, 1988]

SOVIET ARMENIANS PROTEST THEIR SEPARATION

(By Gary Lee)

MOSCOW, Feb. 23—In one of the largest nationalist protests ever held in the Soviet Union, tens of thousands of Armenians demonstrated in the streets of their regional capital last night to demand that they be joined with their compatriots in a neghboring republic, dissident sources reported today.

It was the second ethnic protest in the Soviet Union this month and came only days after Soviet Leader Mikhail Gorbachev told a Communist Party plenum that nationalist tensions were "the most fundamental, vital issue of our society."

According to the Soviet government newspaper Izvestia and the official news agency Tass, demonstrations erupted in the streets of the Armenian capital, Yerevan, and in Stepanakert, in the neighboring republic of Azerbaijan, as Armenians in both areas protested the 1923 decision to divide them by setting up an autonomous region in Azerbaijan.

The official Soviet media did not provide estimates of the number of protesters, but Armenian dissident sources in Moscow said that at least 50,000 were involved.

The demonstrations had grown so much by Monday that Armenian Communist Party leader Karen S. Demirchyan appealed on television and in newspapers for calm to be restored in the region and gave assurances that the Armenian nationality problem would be addressed.

Armenia and Azerbaijan are two of the 15 Soviet republics. The demonstrations taking place are part of a wave of nationalist protests that started in late 1986 when a violent riot broke out in Alma Ata, capital of the Central Asian republic Kazakhstan. Last week a peaceful nationalist demonstration was broken up by Soviet police in the Baltic republic of Lithuania.

Activists in another Baltic republic, Estonia, have urged residents to gather on Wednesday in the streets of the Estonian capital, Tallinn, and four other cities to demonstrate their desire for autonomy.

The Armenian demonstrations started in Azerbaijan's autonomous region of Nagorno-Karabakh two weeks ago, eventually spread to Yervan and continued until today, Soviet dissident Alexander Ogorodnikov said in an interview in Moscow today.

The squabble dates back to before the 1917 Russian Revolution. Nagorno-Karabakh, 95 percent Armenian, became an autonomous republic at the beginning of Soviet rule. But the region, which now has a population of 160,000, was made part of Azerbaijan by a Kremlin decree in November 1923, according to an official Soviet encyclopedia.

The new protests were touched off on Feb. 11, Izvestia reported today, when Armenians in Stepanakert, the largest city in Nagorno-Karabakh, pasted up posters with their demands to be rejoined to the Armenian republic. Schoolchildren and students began to boycott classes and demonstrations broke out, Izvestia said.

Last Friday thousands of Armenian demonstrators, in solidarity with protesters in Nagorno-Karabakh, gathered around the opera house in Yerevan, according to Ogorodnikov, a former Soviet political prisoner who lives in Moscow but maintains close contact with sources in Armenia.

Daily demonstrations in Yerevan continued through the weekend and Demirchyan made his appeal to the public yesterday.

Relations between Azerbaijan and Armenian are usually tense because of religious differences. Azerbaijan is largely Shiite Moslem while Armenia is predominantly Christian. Protests in the region have occurred before, but have always been contained in a limited area.

The Kremlin leadership, in reaction to the flare-up, sent nonvoting Politburo members Georgi Razumovsky and Pyotr Demichev to the area early this week and passed a resolution calling on local party leaders there to resolve the conflict. In a message to party leaders in Nagorno-Karabakh, Razumovsky said that the Soviet Central Committee had found the demands of the protesters unjustifed.

According to Izvestia, however, local party leaders acknowledged that the demands of the demonstrators should be addressed. Deputies of the party committee in Nagorno-Karabakh had passed a resolution calling for a reexamination of the question, Izvestia said.

But, in a signal of a rift between Moscow and local leaders over the issue, Razumovsky told party officials in Stepanakert yesterday that "the party Central Committee considers actions and demands directed at a review of the existing national territorial situation [to be] against the interests of the workers of Azerbaijan and Armenia," Izvestia said.

The dispute is similar to a continuing disagreement between Crimean Tatars and the Kremlin leadership over whether the Tatars should be allowed back into their own au-

tonomous republic, which was taken from them after World War II.

The Crimean Tatars, who staged a major demonstrated in Moscow last summer to protest their ouster from the Soviet Crimea, are among several nationalities who have attracted attention here in the past year. At a Central Committee meeting in Moscow last week, Gorbachev proposed that a special Central Committee plenum be held on the issue.

A TRIBUTE TO OLYMPIC GOLD MEDALIST BONNIE BLAIR

Mr. DIXON. Mr. President, I rise to congratulate Bonnie Blair of Champaign, IL, who won America's second gold medal in the 15th Winter Olympics. Bonnie's rival in the women's 500-meter speed skating, East Germany's Christa Rothenburger, skated first in the event and set a new world record with a time of 39.12. Bonnie remained confident, however, because she had beaten that time in a practice lap earlier in the week. Bonnie started quickly and skated with determination. When she crossed the finish line, she had broken Rothenburger's record by two one-hundredths of a second and won the gold medal.

Twenty-three-year-old Bonnie Blair has lightened the heart of every American who has watched the American team at Calgary. She is a source of pride to her family, her town, and every citizen of the United States. Her feat exemplifies the true spirit of the Olympics. As she said herself, "I think I got it on guts." Winning the gold medal was an outstanding achievement which she considers the greatest moment in her life and we can all share her glory and happiness.

Further, I would like to commend the Champaign Police Benevolent Association, who sponsored Bonnie Blair. Without their support and generosity, and the support and generosity of all the sponsors, great athletes like Bonnie would not be able to compete with the best amateurs in the world in an event as unique as the Olympic Games.

Bonnie is still scheduled to skate in the 1,000 and 1,500 meters. I wish her and the rest of the American team the best of luck.

Thank you.

THE VIETNAM WOMEN'S MEMORIAL PROJECT

Mr. CRANSTON. Mr. President, the Committee on Energy and Natural Resources Subcommittee on Public Lands, National Parks, and Forests held a hearing on Tuesday, February 23 on S. 2042, a bill to authorize the Vietnam Women's Memorial Project [VWMP] to construct a statue of a woman Vietnam veteran at the Vietnam Veterans Memorial site here in Washington. As a coauthor, with Senator DURENBERGER, of S. 2042, which is now cosponsored by 54 Senators, I deeply regret that a scheduling conflict with the INF Foreign Relations Committee hearing at which Henry Kissinger was testifying on Tuesday afternoon prevented me from testifying on behalf of S. 2042 before the subcommittee.

Mr. President, I ask unanimous consent that the text of my prepared testimony for Tuesday's subcommittee hearing be printed in the RECORD at this point.

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

STATEMENT OF SENATOR ALAN CRANSTON

Mr. Chairman and members of the Committee, as a coauthor of S. 2042, I am delighted to appear before you today to urge your Subcommittee and the full Committee to report this legislation favorably in order to authorize the Vietnam Women's Memorial Project (VWMP) to establish a statute of a woman Vietnam veteran at the Vietnam Veterans Memorial (VVM) in Washington, D.C. I congratulate the Chairman for scheduling this hearing in such a timely manner—just as he said he would last December.

I am delighted to note that S. 2042 is now sponsored by 54 members of the Senate

The goal of the VWMP is to recognize the sacrifices and contributions made by women who served in the Vietnam conflict and to educate the public about the role of these women. As a charter member of the VWMP Congressional Advisory Panel, I have great admiration and respect for the commitment, effort, and fine work of the individuals associated with the VWMP in working to attain their goal.

As the Chairman of the Veterans' Affairs Committee, I know that the women who served in and with our Armed Forces with honor, strength, and commitment are often overlooked when our Nation recognizes its veterans.

And women veterans are still much less likely than their male counterparts to use veterans' benefits such as home loan guaranties and VA health care—in part because they are not aware that such benefits are available. Many women veterans do not realize that some of their stress-related symptoms may have been caused by their service in Vietnam. I believe that the VWMP proposed statute, by acknowledging the sacrifices made by women during the Vietnam conflict, would accelerate the healing process for the women who served their country during this very difficult time.

Unfortunately, the efforts of supporters of the VWMP to complete the VVM with a statute of a woman veteran have been stymied. Late last year, Secretary of the Interior Donald P. Hodel endorsed the VWMP proposal and concluded that it was authorized by Public Law 96-297, the law providing for construction of the VVM. With the support of Secretary Hodel, every major veteran's organization, including those who are testifying before the Subcommittee today, and many members of Congress, the VWMP proposal was presented to the Commission of Fine Arts (CFA) for consideration. Despite the very strong support for the project, on October 22, 1987, the CFA rejected it.

CFA Chairman J. Carter Brown, in a letter to Secretary Hodel explaining the CFA's rejection of the VWMP's proposal, said "the Commission believes that any added elements such as the proposed statute will have the appearance of an afterthought." I disagree.

Since I began working with the VWMP, I have been impressed by the project's dedication to ensuring, through careful planning, that the addition of the proposed statue would complement the existing Memorial. The bronze statue proposed by the VWMP is similar in appearance and demeanor to the statue of the three combat soldiers already in place at the Memorial. The proposed placement of the statue at the end of the Wall opposite to the end where the existing statue is placed, would, as Secretary Hodel has pointed out, provide a sense of completion and balance to the Memorial, allowing visitors to walk in a full circle as they visit the different elements of the Memorial site.

Mr. Brown has further said that women are recognized through the symbolism in the statue of the combat soldiers and by the inscription on the Wall of the names of the eight women who died in Vietnam. I do not agree that women veterans are sufficiently represented at the VVM. The "Three Fighting Men" statue has eloquently captured the emotions felt by many men who were involved in combat in Vietnam. However, because women were and are legally barred from combat, this statue does not represent the contributions made by women veterans. In addition, few visitors to the Wall have the opportunity to note the 8 women's names among the 58,146 names inscribed there. A statuary representation of the 10,000 women who served would provide a vivid reminder of the sacrifices and contributions made by these women during the Vietnam conflict.

I was deeply disappointed by the CFA's shortsighted decision. It prompted the introduction of separate bills last year by Senator Durenberger and me—S.J. Res. 215 and S. 1896—with the common goal of authorizing construction of the VWMP proposed statue but providing for different approval processes for the proposal. We have now merged our view points and developed a new proposal which resulted in S. 2042. As I proposed in S. 1896, S. 2042 includes the CFA in the approval process. I believe that bypassing the CFA, which has advised the President, Members of Congress, and various governmental agencies on matters pertaining to the appearance of Washington since the Commission was established by Congress in 1910, would send the wrong signal as to the value and merit of the proposed statue.

S. 2042 would also provide a timetable for the approval process. Under this measure, the Secretary of the Interior would be required within 30 days after the date of the enactment of this act to decide whether or not to approve the design and plans for the project. Should the Secretary fail either to approve or reject the plans within that 30 days, Secretarial approval would be considered, by operation of law, to have been given, and the VWMP proposal would be forwarded to the Fine Arts and National Capital Planning Commissions. Then, under the bill, if either Commission failed to report to the Secretary their approval or rejection of the proposal within 90 days after the plan is submitted to them, the approval of one or both of the Commissions, as appropriate, would be deemed, by operation of law, to be given.

Our bill further would express the sense of the Congress that establishment of the VWMP is a fitting and appropriate way to help complete the process of recognition

and healing for the men and women who served in the Vietnam conflict. In addition, the bill expresses the sense of the Congress that establishment of the statue is well within the scope of Public Law 96-297 and that the Secretary of the Interior and the Commissions should give weighty consideration to the sense of the Congress that a statue of a woman Vietnam veteran should be constructed at the Vietnam Veterans Memorial site.

S. 2042 also expresses the sense of the Congress that with the addition of the VWMP statue the Vietnam Veterans Memorial would be complete and that no further additions to the site should be authorized or undertaken. This provision should help alleviate concerns expressed by CFA Chairman Brown that the VWMP's statue would become the first in a long string of additions to the VVM. I believe that with the addition of the servicewoman the VVM would fulfill the original intent of the authorizing legislation enacted to honor the dedication and sacrifices of the women as well as the men who served on behalf of this nation during the Vietnam conflict. If your Subcommittee believes it would be appropriate and desirable, I urge that you seriously consider converting this sense-of-the-Congress language into a statutory direction as to the completeness of the VVM with the addition of the VWMP statue. Both Senator Durenberger and I would strongly support such a statutory direction.

Finally, I would like to address the issue of the commercialization of memorials. During the recent controversy over the VWMP, the copyright agreement for the "Three Fighting Men" statue—the statue that now accompanies the Wall—received a great deal of publicity. According to a November 11, 1987, Washington Post article, the sculptor had, as of that date, collected $85,000 in royalties from the sale of souvenir reproductions of his combat soldier statue. In contrast, the designer of the Wall receives no royalties and holds no copyright for that exquisite, extraordinary design. I am deeply concerned that other sculptors of national memorials will also seek royalties and commercialize memorials designed to honor individuals who have served our country. For example, the sculptor of the "Lone Sailor" statue which is now part of the Navy memorial cited the "Three Fighting Men" copyright agreement when he negotiated the royalty arrangement for his sculpture and has received $100,000 in royalties from the sale of small reproductions sold to raise money for that monument.

To prevent commercialization of the VWMP statue, I strongly urge that the Committee consider adding a provision to S. 2042 that would specify that any copyright agreement for the VWMP statue must provide that all royalties from the sale of reproductions of the statue be paid to the United States Government. In the event you do so, a similar generic provision should probably also be added to the Commemorative Works on Certain Federal Lands in the District of Columbia Act, Public Law 99-652.

It is my hope that S. 2042 will serve as a rallying point in our effort to establish a woman Vietnam statue. Proponents of the VWMP must work together to convince the CFA and the National Capital Planning Commission of the desirability and merit of this project. I recognize that that may not be easy. But with the strong support of Congress, as evidenced by the 50 Senators sponsoring S. 2042, a greater coalescing of support at the grassroots level, the existing support of every major veterans' organization, and the endorsement of the Secretary of the Interior, I believe agreement can be reached with the two Commissions on the site and plans for this most fitting and appropriate addition in much the same way as the original proponents of the VVM had, to overcome and take into account similar opposition over the fundamental design of the memorial.

I urge your Subcommittee to favorably report S. 2042 to the full Committee and to consider carefully making the modifications I have raised today. I offer you the full cooperation of the Veterans' Affairs Committee and its staff as you proceed with consideration of this legislation.

THE CONVENTIONAL FORCES OF NATO AND THE WARSAW PACT, THE MILITARY BALANCE, 1987-88

Mr. WIRTH. Mr. President, each year, the prestigious International Institute for Strategic Studies [IISS] publishes its highly regarded The Military Balance. This year, recognizing the diminishing utility of traditional numerical balances, IISS departs from past practices, and offers a thoughtful essay regarding alternative means to assess the conventional balance in Europe. The essay, reproduced below, examines several reasons for assessing the balance, discusses various considerations that one should include in such assessments, and describes different methodologies for making these assessments.

IISS offers several reasons for studying the balance. Among them are evaluating relative force effectiveness, determining priorities for defense expenditures, identifying possible arms control measures to reduce tension and promote stability, and even rallying public opinion to support a country's foreign or defense policies.

Regarding the considerations of which one must take account in these evaluations, IISS notes the utility (especially for arms control) while stressing the limitations of numerical comparisons. Among other things, one must consider respective strategies, that is, for what purpose are the weapons intended, in order to evaluate the balance between them. Furthermore, the assumptions one must necessarily make in assessing the balance dramatically affects one's conclusions. One must ask, for example, what forces to include in the balance; how to aggregate the forces for comparison; whether and how to address readiness and combat capability; what will be the conflict scenario; what will be the political reactions to enemy mobilization; and how to factor in nonsuperpower forces.

ISS further argues that one must consider numerous intangibles. Examples include: "quality of units or equipment, geography, doctrine, military technology, deployment, training, logistical support, morale, leadership, tactical initiative, terrain, weather, political will, alliance cohesion, and interoperability."

IISS, as noted, discusses alternative approaches to evaluating the balance. According to IISS, these approaches fall into two broad categories, both of which progress beyond simple static "bean counts." These categories are numerical comparisons that attempt to provide sophisticated measures of force capability, and dynamic comparisons that examine the interaction between opposing forces in combat scenarios. While the methodologies included in these categories are generally superior to simple numerical comparisons, they too have limitations. Any assessment of these methodologies must by definition include constantly changing and difficult to quantify factors, for example, the intangibles noted above and differences in equipment, mobilization, resupply capabilities, and deployment patterns. Examples of dynamic measures include the following approaches: Investigations of force ratios necessary for successful attack (or defense); analyses of relative combat potential, a measure that includes pace of combat, time to mobilize and reinforce, and ratio of forces to space; examination of relative tactical effectiveness and efficiency indices; and various sophisticated "war-gaming" analyses.

Unlike previous editions of The Military Balance, IISS has chosen this year not to offer any overall evaluations of the conventional balance in Europe. Consistent with past editions, however, IISS does conclude that "under a wide range of circumstances, general military aggression is a high risk option with unpredictable consequences, particularly where the possibility of nuclear escalation exists." The IISS essay follows:

[From The Military Balance, 1987-88]

THE CONVENTIONAL FORCES OF NATO AND THE WARSAW PACT

For twenty years the IISS has included in The Military Balance a section on the East-West conventional balance in Europe, presenting levels of forces and equipment on the two sides and, since the 1981-1982 edition, providing force ratios. This comparison has been much quoted, but also at times misrepresented. Recent events—including progress towards the signing of an INF agreement, the prospect of a new round of negotiations on conventional force reductions in Europe, debates over NATO's military spending and modernization requirements, and proposals for modifying or even radically altering NATO strategy—have all focused increased attention on the issue of the balance of forces in Europe.

In the light of these developments, the Institute has decided to adopt a different approach to presenting the conventional military forces of NATO and the Warsaw Pact. This essay will examine the various reasons for attempting to assess what is commonly called the "balance" of military forces, discuss some of the considerations which should inform such attempts, and describe

several methodologies that might be employed, together with their limitations. A summary table of NATO and Warsaw Pact conventional forces is included at the end, drawn from the country entries. No single overall conclusion or assessment of the "balance" will, however, be offered.

WHY ATTEMPT TO MEASURE THE BALANCE?

There are a variety of possible reasons for attempting to assess the relationship between the conventional military forces of the two blocs in Europe. It is critical for any analysis to understand the range of these potential reasons, since the data and methodology that are appropriate will differ depending on the reason chosen.

Analysis may be designed to assess relative force effectiveness, either to judge the ability of one side to deter aggression by the other, or to determine the likely outcome of conflict over a chosen period of time. Force comparisons, and the areas of vulnerability they disclose, can be useful in assigning priorities for investment in defense and for choosing whether to spend scarce resources on defence or other programmes. The arms controller may need to assess the relative capabilities and vulnerabilities of military forces on both sides, with a view to identifying possible measures to reduce tension and promote stability. Political leaders, East and West, sometimes use assessments of the "balance" selectively to rally public support for their foreign and defence policies.

No single approach is likely to prove useful for all purposes. Indeed, it is a misnomer to speak of a single, overall "balance". Although, for ease of exposition, the term "balance" is retained in this essay, it should be clearly understood that the word refers to the complex of interrelationships between the two sides' forces.

WHAT WE OUGHT TO COMPARE

After defining the purpose to be served, the first step in constructing an approach to assessing the balance is to decide what should be compared, and with what.

Static comparisons of like versus like—weighing each side's holdings of comparable weapon systems against the other's—have been widely criticized as irrelevant and potentially misleading. This conclusion is generally valid. In the case of arms control, however, because future treaty limitations will almost certainly be defined in terms of categories of forces and equipment, static comparisons will undoubtedly be used in evolving proposals and coming to assessments of the results. What it is important to remember is that such comparisons provide only partial illumination as to relative force capabilities.

NATO has never sought to build a conventional force structure that is a one-for-one match for the Warsaw Pact's, in part because its strategy is designed to deter a Warsaw Pact attack through a combination of conventional defense and the threat of nuclear escalation. Unless one is prepared to argue that NATO ought to have the same strategy as the Warsaw Pact (and that the Pact has chosen the optimum force structure for achieving that strategy), it is not particularly relevant that NATO may be numerically inferior in certain categories of weapons. Moreover, some like-to-like comparisons totally miscategorize the relevant mission—for example, the number of ASW systems NATO requires is not a function of how many ASW systems the Warsaw Pact has, but rather of how many submarines the ASW systems must contend with.

In addition, to understand the effectiveness of military forces, the synergy between military forces and weapons must be taken into account. The ground battle will not be fought in isolation; it will be influenced very directly by the capabilities of the air forces and air defenses of both sides. Developments at sea will also affect the land battle, especially if the conflict is extended and its outcome will depend upon reinforcement and resupply.

ASSUMPTIONS

The next step in constructing an approach to assessing the balance is to specify the assumptions. Conclusions about the balance are highly dependent on the assumptions employed.

In developing static comparisons, the most important questions which must be answered are:

Which military forces will be included and excluded?

How will the forces be aggregated for comparison, in terms both of geographical dimensions (e.g. an overall European theatre, or separate fronts and flanks) and of categories of equipment (e.g. combat aircraft, or sub-categories such as interceptors, attack aircraft, etc.)?

How (if at all) will the readiness and combat capability of equipment or formations be introduced?

Dynamic analysis, designed to investigate what might actually happen if war were to occur, is even more critically dependent upon a wide range of assumptions. These include:

The scenario. Why has the conflict begun? What are the political and military objectives of each side? What, if anything, is happening in other theatres (particularly in those which might divert resources otherwise available for operations in Europe)?

Critical time factors. What time has elapsed between the start of mobilization by one side and the response of the other side? How quickly can the forces mobilize and deploy? How long after the start of mobilization does combat begin?

Participating forces. In the case of NATO, what role will French and Spanish forces play, and what access to their bases will US forces have for reinforcement? For the Warsaw Pact, will the East European allies fight alongside their Soviet counterparts, and for how long?

The nature of the combat. What will be the tempo of battle (in terms of rates of fire, attrition, etc.)? What is the likely relationship between offence and defence, given the terrain and each side's ability to mass troops? How will equipment, personnel, C³I (command, control, communications and intelligence) systems, etc., perform in actual combat?

Many of the aspects requiring assumptions are interactive. Thus, while some errors in assumptions will probably be self-cancelling, others—especially in any dynamic analysis or gaming—will be cumulative, or even multiplicative. Ideally, therefore, analysis should explore the full range of reasonable assumptions for each relevant factor and thus produce a variety of potential outcomes.

ASSESSING THE INTANGIBLES

Efforts to characterize the military balance inevitably face the problem of quantifying factors that are difficult, if not impossible, to measure. Over the years, The Military Balance has identified a number of such factors: including quality of units or equipment, geography, doctrine, military technology, deployment, training, logistic support, morale, leadership, tactical initiative, terrain, weather, political will, alliance cohesion and interoperability. Some analysts have argued that these factors far outweigh more common numerical indicators. "Battle outcomes are quite insensitive to force ratio. . . . The available historical evidence indicates that, short of huge force disparities, the dominant aspects of combat capability are training and tactics." [1] Some of these factors may be especially important to the European balance, for NATO, according to some analysts, has the edge in leadership, training and morale and invests considerable resources in what are known as "force multipliers" such as C³I and surveillance. These intangibles seem inherently incapable of meaningful quantification. Others, such as technology and logistic support, will be difficult but perhaps not impossible to quantify.

EVALUATING THE DATA

Even relatively tangible variables—such as numbers of tanks or personnel—are subject to varying degrees of confidence in the accuracy of the data. For example, data on NATO forces are likely to be more accurate than that on the Warsaw Pact, and, for Warsaw Pact forces, data on the Central Region are more accurate than for the Western Military Districts of the Soviet Union. Some analysts capture this uncertainty by assigning a range of values to each variable.

ALTERNATIVE APPROACHES TO ASSESSING THE BALANCE

A number of analysts both in and out of government have attempted to build models to capture elements of the NATO/Warsaw Pact balance. The models fall into two broad categories of approach: those that present static comparisons of forces, but attempt to provide a more sophisticated measure of force capability; and those involving dynamic modelling that explore the interaction of the two opposing forces. Each progresses beyond the simple static comparison or "bean-counts", but each also has it own limitations, principally relating to the inevitably debatable nature of the assumptions used.

Enhanced static comparisons

In the past, one of the elements tabulated for comparison in The Military Balance has been the number of divisions on each side. As we have acknowledged, "divisions are not a standard formation between armies", they differ in size, equipment and combat readiness. For this reason The Military Balance has included aggregate data on quantities of equipment to give some measure of the firepower and combat capability of forces.

Some analysts have gone one step further, to create indices of combat capability for whole formations. Such an approach uses assessments of firepower capabilities derived from more or less authoritative estimates of weapon effectiveness to bring all NATO and Warsaw Pact forces onto a common basis for comparative purposes. They also assign separate values for each force depending on whether it is operating in offence or defence. The outcome has typically been expressed in such units of measurement as "Armoured Division Equivalents",[2] "firepower units",[3] "Standard Division Equivalents".[4] This approach can lead to results that differ considerably from raw divisional counts. For example, in the studies cited, the Warsaw Pact advantage is reduced.

While establishing common units of measurement should facilitate more meaningful

comparisons between force capabilities, such units are not without limitations. They necessarily ignore most of the significant intangibles (training, leadership, morale, etc.). They require continuous updating; force effectiveness alters with every equipment update or structural change, and changes on one side (e.g. equipping Soviet tanks with reactive armour) will change the effectiveness of the other side's equipment (e.g. NATO's anti-tank weapons). Moreover, any attempt to grade force effectiveness against uniform standards of offensive and defensive capability is likely to require somewhat sweeping assumptions about the mix of combat circumstances typical of each role, and also to pose the difficult problem of how to take proper account of the differing tactical concepts and practices of national forces.

This approach to comparing force capabilities can be enhanced to distinguish combat-ready in-place forces from those which must be mobilized and deployed. Given data, or assumptions, about realistic force mobilization rates, and using a common unit of measurement, one can plot over time the growing availability of in-theatre ground and air force capabilities for each side. The force ratios can be calculated for any point in time, and the implications can be seen of delays between Warsaw Pact and NATO mobilization, or between mobilization and the start of hostilities. Such an approach has been developed for division equivalents by Andrew Hamilton and for tanks by Anthony Cordesman.[5]

A notable difficulty in such analyses is that experts differ considerably in their estimates of how quickly Soviet divisions in the "non-ready" category could be manned, trained and deployed, as well as of how soon NATO's reinforcing divisions would arrive. While Cordesman's tank study assumes the availability of Soviet Category II divisions at about M+30 days, and Category III divisions at M+130, the author notes that "other US and most European experts feel . . . that the USSR would rely on mass and ignore problems of training and the ability to fight as a cohesive unit. They credit Category II units with almost immediate combat capability once they fully mobilize—something that requires 48-96 hours." Uncertainties of this magnitude significantly diminish the utility of the analysis for resolving questions of relative capability.

Yet another key aspect of static force comparisons is sustainability—an advantage in tank numbers is illusory if the ammunition or fuel to sustain them is lacking. Comparison between NATO and the Warsaw Pact in this respect are difficult: stock levels are not generally made public, and expenditure rates will be highly dependent upon the intensity of combat. Comparisons are further complicated by the fact that offensive and defensive operations may have differing logistic requirements for ammunition and fuel.

DYNAMIC MEASURES

Although the static models described provide additional data on capabilities, they do not examine the interaction between the two forces, and so do not help the analyst seeking to understand "how well" NATO might reasonably be expected to perform. This is a critical deficiency in the European context, where NATO's goal is not necessarily parity in a particular measure of capability, however sophisticated, but rather an appropriate degree of ability to resist an attack.

Analysts have long employed criteria based on force ratios to judge the probability of an attack succeeding. The two best-known sources are the Lanchester "concentration of firepower" approach (which suggests that, other things—terrain considerations, training, morale, etc.—being equal, offense and defence are equally matched at 1.4:1) and the long-standing military rule of thumb reflected in the 1976 edition of the US Army manual Operations: FM 100-5, which suggests that the defense can hold against an attack at a ration of 3:1. Other analysts have argued in favour of force ratios from as little as 1.2:1 to as much as 5:1 or 6:1. (It is, however, notable that the in-theatre balance of forces at the time of the successful 1940 German offensive on the Western Front was approximately 1:1, and that operations in the Falkland Islands appear similarly to lie outside the theoretical norms.) Any effort to devise a reliable rule of thumb therefore has its pitfalls, with the danger that such key factors as the ability to use surprise and deception, or to exploit a key vulnerability of the other side (for example by destroying vital command and control nodes), may affect the outcome totally independently of the ratio of the two sides' combat capability. It is also important to keep in mind that, insofar as force ratios may be relevant to the outcome, it is likely to be local, rather than theatre-wide, ratios that are determinative.

Some analysts both inside and outside governments have constructed more complex models involving the interaction of military forces in Central Europe. Some are interested in assessing how successful NATO would be in resisting a Warsaw Pact conventional attack; others use the models to define requirements for ammunition stocks and war reserve materials, while yet others focus on sectors of the Front to decide how best to allocate scarce resources between different kinds of new equipment: e.g. helicopters or tanks.

Dr. Richard Kugler has developed the "Attrition/FEBA Expansion Model", which the US Department of Defense has used as part of its programming and budgeting review process, and Dr. Barry Posen has applied this to the scenario of a concentration of Warsaw Pact forces attacking along three corridors into West Germany—seeking to assess the likelihood of a Pact breakthrough (or, conversely, a successful NATO resistance).[6] His analysis takes into account relative combat potential (using Armoured Division Equivalents), time (mobilization rates), the "pace" of combat (attrition rates) and the ratios of force to space and advance rates, as well as the effect of tactical aviation on the ground battle.

This model uses a number of simplifying assumptions, the uncertain validity of which the author explicitly recognizes. Tactical skill and innovation is ignored, and so is the potentially very significant factor of terrain. Also, the model gives a poor representation of the situation as it would exist in a surprise attack with only a few days of mobilization—that is, before NATO could establish a true defensive line. Perhaps most important, the analysis is highly sensitive to the values assigned to the variables, which are a matter of considerable debate. It does, however, have the advantage of treating NATO and Warsaw Pact forces alike in one case, and then introducing a second case in which NATO is credited with a ("combat enhancement factor") to reflect assumed advantages in command, control, communications and logistics. The model also has scope to allow for variations in the delay between Warsaw Pact and NATO M-Days, and between both of these and the start of combat operations.

Andrew Hamilton has constructed a different dynamic model, which also seeks to establish the number of NATO forces required to halt a Warsaw Pact attack by looking at two principal variables. The first of these is "relative technical effectiveness" (the "local ratio of attackers at which the defense will have a better than even probability of defeating an attack"). The second is an "efficiency index" (the fraction of available NATO operational reserves which can be moved to shore up sectors under heaviest attack).

William Kaufman has constructed yet a third model to try to determine the probability of a Warsaw Pact success—which he defines as a breakthrough sufficient to make substantial territorial gains in the Federal Republic of Germany and eventually defeat NATO. He also seeks to show the degree of Warsaw Pact penetration after seven days of combat, using a number of variables: the days of mobilization before attack, the type of attack (broad front or concentrated), whether there has been strategic delay in racting to Warsaw Pact mobilization, tactical error in responding to the specific axis of Warsaw Pact attack, and the existence of barriers along the inter-German border.

In an effort to transcend some of the limitations of the simple dynamic models discussed above, the Strategy Assessment Center of the Rand Corporation in California has begun to develop complex simulation models to assess such key elements as command and control, logistics, the interconnection among elements of combined-arm forces, high technology, barrier defences and the impact of alternative operational strategies (e.g., mobile defences). Through the development of "automated" war-gaming, Rand is able to integrate the contextual richness of war-gaming (and its feel of operational realism) with the predictive power of analytic modelling. Rand's approach allows for multi-scenario analysis (beyond the simple variables of warning time and rate of mobilization), permitting the analyst or policy-maker to manipulate a broad range of variables and assess their effect on outcomes. Its model employs "scripted scenarios", to allow consideration of contingencies (e.g., an early Warsaw Pact breakthrough) outside the scope of models that depend on averaged values (such as the Attrition/FEBA expansion model.[7]

Defining a satisfactory model for assessing the results of a dynamic interchange of military forces is obviously an important task, but the wide range of 'answers' derived from the models, coupled with their high degree of sensitivity to critical assumptions, underlines the difficulty of producing meaningful results. Indeed it is probably fair to say of analysis, modelling and gaming of the types described above that, although they can be very useful in elucidating relative aspects of force comparisons—such as whether and how much NATO benefits from equipment upgrades and force structure and doctrine changes (the principal aim of such analyses in defence establishments)—it is extremely doubtful whether they can produce dependable absolute answers to questions such as who wins, or how long a defence can hold.,

The preceding discussion has focused on problems of assessing the interrelationship between NATO and Warsaw Pact forces, but

the issues are applicable outside the European theatre as well, and models developed for this context can be adapted to other regional settings. Although the scenario of bipolar conflict in Europe in some respects makes the analysis easier, it is important to remember that the models do not take into account the possible role of neutral states—which in some cases (for example, Finland and Sweden on the Northern Flank) could have a significant impact on the outcome of a conflict.

NATO AND WARSAW PACT FORCES

In the light of the considerations discussed above, the IISS has decided not to present any overall judgments of the state of the conventional balance between NATO and the Warsaw Pact. This is not to differ with the conclusions in earlier editions of The Military Balance that under a wide range of circumstances general military aggression is a high-risk option with unpredictable consequences, particularly where the possibility of nuclear escalation exists. Nonetheless, it is important to underline that a numerical comparison of the forces presented in this volume cannot by itself answer basic questions about the relative capabilities of each side's forces to perform their required mission.

In using the data in the The Military Balance 1987-1988, it is important to keep all the foregoing factors and considerations in mind—especially when seeking to draw any conclusions from the Tables which follow.

The first of these, Table A, provides aggregated data on NATO and Warsaw Pact military manpower and key equipment, derived from the relevant country entries. This table has been designed with conventional arms-control negotiations in mind (since it is in this context that static comparisons of aggregated figures may be of greatest relevance and utility) and shows the relevant holdings of ground forces and land-based air forces within three geographical areas:

The NATO Guidelines Area (NGA), consisting of the area under discussion in the Mutual and Balanced Force Reduction (MBFR) negotiations. This comprises the Federal Republic of Germany and the Benelux countries for NATO; the German Democratic Republic, Poland and Czechoslovakia for the Warsaw Pact.

The Atlantic-to-Urals area now subject to the Confidence- and Security-Building Measures (CSBM) recently negotiated in the Conference on Disarmament in Europe (CDE) at Stockholm, and likely to be the subject of further CSBM and force-reduction/stability negotiations. For the purposes of this table, the ('zone of application') of the Stockholm agreement is used, with the exception that all Turkish forces are included. For NATO, this means that Iceland and the Atlantic Islands are included, and for the Warsaw Pact, Soviet forces in the Moscow, Volga, Ural, North and Trans-Caucasus Military Districts (as well as the Western, North-Western and South-Western TVDs).

Global holdings include all forces of NATO and Warsaw Pact countries, even those committed to other theatres of operation (e.g. US forces in Korea, Soviet forces in Vietnam, French forces in Chad, etc.)

Maritime forces (naval and air) are aggregated on two geographical bases:

"Atlantic/European"—which comprises forces in the Atlantic and European waters north of the Tropic of Cancer and the Mediterranean, including the Soviet Northern, Baltic and Black Sea Fleets and Mediterranean squadron; for the US it includes all forces belonging to CINCLANT.

"Global" comprises all holdings of NATO and Warsaw Pact countries, wherever deployed.

With a view to enhancing the picture presented by the static comparison in Table A, Table B seeks to make possible a better comparison of relative tank capabilities by providing data on certain key indicia of capability for the tanks in the NATO and Warsaw Pact forces. Although tank capabilities are highly dependent on the circumstances of the engagement, tactics and the skills of crew, this data provides a somewhat more complete portrait of the two sides' tank holdings than the simple aggregation in the main force-structure comparison.

FOOTNOTES

[1] Jack N. Merritt and Pierre M. Sprey, "Negative Marginal Returns in Weapon Acquisition," in Richard G. Head and Ervin J. Rokke (eds), *American Defense Policy* (Baltimore: John Hopkins up, UP 1973).

[2] William P. Mako, *U.S. Ground Forces and the Defense of Central Europe* (Washington D.C. Brookings, 1983).

[3] William W. Kaufmann, "Non-Nuclear Deterrence", in John D. Steinbrunner and Leon V. Signal (eds), Alliance Security and the No-First-Use Question (Washington DC Brookings: 1983).

[4] Andrew Hamilton, "Redressing the Conventional Balance" in *International Security*, Summer 1985.

[5] "The Nato Central Region and the Balance of Uncertainty", in *Armed Forces Journal International*, July 1983.

[6] Measuring the European Conventional Balance' *International Security*, Winter 1985/5.

[7] See Paul K. Davis, "Game Structured Analysis as a Framework for Defense Planning", in R.K. Huber (ed.) *Modelling and Analysis of Conventional Defense in Europe (New York: Plenum, 1986).*

TABLE A.—CONVENTIONAL FORCE DATA: NATO AND WARSAW PACT

[N.B. This table presents aggregated data for a large number of national forces, divided on the basis of their geographical deployment. The level of confidence as to the many components varies; the aggregated figures therefore embody a measure of estimation]

	NATO guidelines area		Atlantic to Urals		Global	
	NATO [1]	WP	NATO [1]	WP	NATO [1]	WP
Manpower (000):						
Total active ground forces [2]	796	995	2,385	2,292	2,992	2,829
Total ground force reserves [3]	922	1,030	4,371	4,276	5,502	5,348
Divisions: [4]						
Manned in peacetime [5]	32⅓	48⅔	107⅓	101⅓	127⅓	131
Manned on mobilization of reserves [6]	12	8	41?	100	72	137
Total, war mobilized [6]	44⅓	56⅔	149	201⅓	199⅓	268
Ground Force Equipment: [7]						
Main Battle Tanks	12,700	18,000	22,200	52,200	30,500	68,300
MICV	3,400	8,000	4,200	25,800	8,000	34,400
Artillery, MRL, ATK guns	3,600	9,500	11,100	37,000	21,500	50,400
Mor (120mm and over)	1,200	2,200	2,600	9,500	2,600	13,600
ATGW: ground-based [8]	6,500	4,500	10,100	16,600	18,500	23,600
ATGW: hel-borne	300	270	470	1,050	1,620	1,370
AA guns	3,100	3,400	7,400	12,000	8,400	15,100
SAM [9]	1,350	2,200	2,250	12,850	3,000	16,150
Armed helicopters [10]	550	430	780	1,630	2,020	2,130
Land Combat Aircraft: [11]						
Bombers [11]	72	225	285	450	518	1,182
Attack [11]	901	799	2,108	2,144	5,157	3,119
Interceptors/fighters [11]	304	1,020	899	4,930	1,763	5,265

Footnotes at the end of next table.

	European-Atlantic waters		Global	
	NATO	WP	NATO [1]	WP
Naval Forces:				
Submarines [12]	196	231	238	301
Carriers [13]	24(8)	4(2)	37(14)	6(2)
Cruisers	16	24	39	37
Destroyers	124	50	167	64
Frigates	196	50	272	75
Corvettes	22	100	22	133
FAC (G/T/P)	168	238	168	415
MCMV [14]	242	338	252	427

	European-Atlantic waters		Global	
	NATO	WP	NATO [1]	WP
Amphibious [15]	200	100	250	123
Naval Air [11]:				
Bombers [11]	38	250	38	390
Attack [11]	379	177	621	235
Interceptors/fighters [11]	180	12	264	12
ASW fixed-wing ac	145	150	553	219
ASW hel	390	224	626	335

[1] French and Spanish forces are not part of NATO's integrated military command, but are included insofar as they are deployed in the relevant geographical area. French forces in West Germany are included in the NGA column by virtue of their deployment, but are not subject to the MBFR negotiations.
[2] Ground Forces exclude paramilitary forces, border guards and security forces. Warsaw Pact figures would be increased by some 500,000–700,000 (Atlantic to Urals) and some 800,000 to 1.5 million (Global) by the inclusion of an assumed ground force 'slice' of Soviet railroad, construction, labour, command and general support troops—all of which are uniformed, armed and have undergone at least basic military training. Reserves could arguably be increased in proportion.
[3] Reserves do not generally include personnel beyond a five year post-service period, whether or not they are assigned to units. For a fuller explanation of reserve counts see Manpower paragraph on p. 6.
[4] Divisions are not a standard formation between armies, nor do divisions contain comparable numbers or types of equipment or personnel. For the purposes of this table, three brigades or regiments are considered to be a divisional equivalent.
[5] 'Manned in peacetime' includes all Soviet and WP Category 2 divisions in the relevant geographical area.
[6] Comprises only forces mobilized within relevant geographical areas. North American-based US and Canadian formations earmarked for reinforcement of Europe on or after mobilization are therefore shown under 'Global', rather than in the 'NGA' or 'Atlantic to Urals' columns.
[7] Figures include equipment in storage or reserve where known.
[8] ATGW proliferation presents particular difficulties for realistic counting rules. The figures shown are estimated aggregates of all dismounted ATGW and those vehicle-mounted weapons with a primary ATK role. Soviet Category 3 divisions are assumed to hold a reduced (50%) scale of dismounted weapons. Totals exclude ATGW on MICV (e.g. M–2/3 Bradley, BMP, BMD) or fired by main battle tank main armament (e.g. T–80) and do not, therefore, represent total available ATGW for either side.
[9] SAM launchers exclude shoulder-launched weapons. They include Air Force and Air Defense Force weapons.
[10] Comprises all helicopters whose primary function is close air support or anti-tank (i.e. includes hel-borne ATGW shown in earlier line).
[11] The categorization of aircraft between roles reflects that shown in the country entries, but the figures should be used with care. Many of the aircraft are multi-role; primary roles for similar aircraft vary between countries, and distinctions between attack and bomber and between fighter and fighter ground attack (FGA=attack) cannot be drawn with certainty. Moreover, training aircraft have been excluded, although they could provide some reinforcement or replacements in operations.
[12] Excludes SSB, SSBN, SSG, SSGN.
[13] Figure in brackets is number of helicopter-only carriers included in total.
[14] Includes inshore vessels; excludes minelayers and support craft.
[15] Excludes LCU, LCVP, and LCA small craft.

TABLE B.—NATO AND WARSAW PACT MAIN BATTLE TANKS: KEY CHARACTERISTICS

Type	Origin/(year in service)	Crew	Combat weight (tonnes)	Overall height (m)	Engine (HP)	Cross-country speed (km/h) [1]	Main gun (mm) [2]	Ammo types [3]	Armour: hull front/turret (mm) [4]	Features [5]	Holdings
NATO											
M–1	USA (1982)	4	54	2.9	1,500	50	105R	AP, HT, S	Spaced, multi-layer	N, C, SG	
M–1A1	USA (1982)	4	57	2.9	1,500	50	120S	AP, HT, S	Spaced multi-layer	N, C, SG	USA 4,798.
M–60A1	USA (1960)	4	53	3.3	750	39	105R	AP, HT, S	>120/>110	N, C, SG (retrofit), DW.	USA 668, Italy 300.
M–60A3	USA (1979)	4	53	3.3	750	39	105R	AP, HT, S	>100/>110	N, C, SG	USA 7,352.
M–48A1	USA (1952)	4	47	3.1	810	32	90R	AP, HT, C, S	120/110	N, C	Greece 585, Turkey 1,085.
M–48A2	USA (1957)	4	47	3.1	825	32	90R	AP, HT, C, S	120/110	N, C	FRG 949.
M–48A3	USA (1969)	4	47	3.1	740	32	90R	AP, HT, C, S	120/100	N, C	Greece 250.
M–48A5	USA (1975)	4	49	3.1	750	32	105R	AP, HT	120/110	N, C	USA 1,478, Greece 265, Norway 42, Port 40, Spain 164, Turkey 1,615.
Challenger	UK (1983)	4	62	3.0	1,200	40	120R	AP, HS, S	Spaced Multi-layer	N, C, SG	UK 250.
Chieftain Mk 3	UK (1969)	4	54	2.9	730	30	120R	AP, HS, S	(6)	N, C, SG	UK 900.
Chieftain Mk 5	UK (1974)	4	55	2.9	750	30	120R	AP, HS, S	(6)	N, C, SG	UK 900.
Centurion Mk 5	UK (1956)	4	51	2.9	650	25	83R 105R	AP,HE,C,AP,HS,S,C	76/152	SG	Denmark 88.
Leopard 2	FRG (1980)	4	55	2.8	1,500	50	120S	AP, HT	Spaced multi-layer	N, C, SG, DW	FRG 1,513, Neth 445.
Leopard 1A4 [7]	FRG (1966)	4	42	2.8	830	35	105R	AP, HS, S	70/60	N, C, SG, DW	Belgium 334, Cdn 114, Denmark 120, FRG 2,437, Greece 106, Italy 920, Neth 468, Norway 80, Turkey 77.
AMX–30	France (1967)	4	36	2.9	720	35–40	105R	AP, HT, HE, S	79/81	N, C, DW	France 1,300, Greece 250, Spain 319.
Warsaw Pact											
T–80	USSR (1980)	3	43	2.3	900	50	125S	AP, HE, HT, AT	200?/450? Possible composite on hull and turret [8].	N, C, SG, DW, AL	USSR 1,400.
T–72	USSR (1972)	3	41	2.4	780	45	125S	AP, HE, HT	200/280 Probably multi-layer.	N, C, SG, DW, AL	USSR 8,500, Czech 3,500 (incl T–54/–55), GDR 1,800 (incl T–62 and T–54/–55), Hungary 60, Pol 70, Romania 30.
T–64	USSR (1966)	3	38	2.3	750	45	125S	AP,HT,HE,AT(T–64B)	200?/450? Possible composite on hull and turret [8].	N, C, SG, DW, AL	USSR 9,300.
T–62	USSR (1962)	4	40	2.4	580	35	115S	AP, HT, HE	102/242 [9]	N, SG, DW	USSR 13,700, GDR incl in T–72 total.
T–54/55	USSR (1956)	4	36	2.4	580	35	100R	AP, HT, HE	99/203	N, SG (T–54B onwards), DW.	USSR 19,900, Czech incl in T–72 total, GDR incl in T–72 total, Hungary 1,200, Pol. 3,400, Romania 1,200 (incl 200 M–77). [10]
T–34	USSR (1940)	5	32	2.7	500	30?	85R	AP, HT	47/90		Bulgaria, Romania, (others in storage).

[1] Estimated.
[2] S=smooth bore; R=rifled bore.
[3] AP=armour piercing; HT=high explosive anti-tank (heat); HE=high explosive; HS=high explosive squash head (HESH); C=canister; S=smoke; AT=anti-tank guided weapon through bore.
[4] Figures indicate actual thickness of armour; because armour is frequently angled, the thickness to be penetrated may exceed the figure shown.
[5] N=night sight; C=computerized fire control; SG=stabilized gun; DW=deep wading (snorkel) facility; AL=autoloader.
[6] Detail not available. Probably comparable to M–60 series.
[7] Some of the holdings are Leopard 1A3.
[8] Some T–80, T–64B (and T72?) fitted for attachment of reactive armour panels.
[9] Applique armour added to some models.
[10] M–77 is a Romanian modification of the T–55.

SANDY SANBORN'S NATURE PLACE

Mr. WIRTH. Mr. President, an understanding of notice, the outdoors, and the balance of man in his environment is one of the hallmarks of the educated person.

And from time to time great educators show up and to them we are all indebted.

One of these great educators is Roger "Sandy" Sanborn, founder, director and guru of Sanborn's Western Camps and the Nature Place in Florissant, CO.

I want to share with my colleagues a fine article on Sandy—a teacher to whom so many of us owe a great debt.

The article follows:

[From the Gazette Telegraph; Aug. 2, 1987]

A PLACE TO SMELL THE ROSES: THIS RANCH A REVELATION OF NATURE

(By Deborah Belgum)

Sandy Sanborn walks down the dusty dirt road that winds through 400 million years of history.

As his sneakered feet briskly stride along the serpentine route, the crunching sound of gravel provides a syncopated backdrop to the gurgling of the nearby creek.

On either side of the narrow road—between Cripple Creek and Canon City—stand bristlecone pines, gambel oaks and mountain mahoganies.

Firecracker penstemons the color of paprika, and Western wallflowers the color of saffron blaze their own trail next to the dull brown road.

Farther down the way, a group of people wander to discover the geological disparity of the region, which reveals itself in 400-million-year-old fossils, 250-million-year-old dinosaur bones and 100-year-old hand-dug oil wells.

As Sanborn continues along the road, he observes the things that are important to him.

He ambles over to a spray of pink wild roses and sticks his nose close to the delicate flowers.

"I just love these roses. I just love to smell them," he says with the enthusiasm of a man who would be lost without nature.

And Sanborn admits he would.

But he also preaches that everyone is lost without nature. The problem is, they just don't always know it.

"We all need to learn that the world is whole as well as round," he says as an easy grin makes another appearance on his well-lined face. "We need to learn it not only scientifically but emotionally. How we fit in, and where we fit in."

Sandy Sanborn has been introducing people to nature for almost 40 years.

He and his wife Laura started Sanborn Western Camps in 1948. First came the boys camp, called Big Springs. Fourteen years later, came the girls camp, called High Trails.

But it wasn't until eight years ago that they finally built a place for adults—called The Nature Place, where resident botanists, ornithologists, geologists and historians give a week-long crash course on the different aspects that make up nature.

The center has 32 studio apartments built out of wood and rock. The main lodge has a dining room that looks onto Pikes Peak.

The camps and the center form a 46,000-acre laboratory, five miles outside Florissant, for studying the natural world. The Sanborns own 6,000 acres and lease the other 40,000 from the government.

The Nature Place caters to everyone—from academic groups to business executives to nature aficionados throughout the country.

Sanborn's goal is to anoint everyone in the importance of our natural world, how it is all interconnected, where we fit in and why we must serve as its guardian.

"The whole Earth is built like a business. If you use up all your raw materials, you can't do anything. If you use up all your capital, you're going to end up in bankruptcy court," he says with the broad accent of a New Hampshire native who grew up in Manchester.

"If we are going to sustain our business, we have to take a longer view."

Sanborn began taking a longer view right before World War II. As a young man, he was selling eyeglass frames for American Optical, apprenticing with an older salesman.

"One day I went to an oculist convention and this guy had all the frames set out in the room, and I served the drinks.

"Well, geez. Three days of serving drinks at the eye doctors' convention was fine, except I asked myself about this guy. Here's this guy, 45 or 50. I asked, 'Do I want to end up smoking this brand of cigar and showing these frames forever, or do I want to do something that is more fun or more meaningful?'"

The answer is obvious. Sanborn went to Europe to work for American Youth Hostels, guiding a bicycle tour. Then, he returned to teach American history at one of the hostel's prep schools in New Hampshire, even though he only had two years of college where he studied business administration. It was with the youth-hostel people that he was introduced to the concept of: "When youth meet youth the world over, wars will cease."

But World War II interrupted the teaching years. A good skier, he ended up fighting with the 10th Mountain Division in northern Italy.

And, after the war, he and his wife sat down and decided that their goal was to educate children by exposing them to the outdoors. Their camp slogan would be, "Fun and adventure with a purpose."

So, in 1947, when an acquaintance told them about some land for sale near Florissant, they decided to purchase 480 acres for $7,500, living in an old army tent while they built a home.

"We were kind of hippies 40 years ago, if there was such a thing. We were living in this tent, and it looked like hell," the brown-haired Sanborn jokes.

The next summer, they opened their camp by taking four boys into their house. "The first kid I signed up was a guy named John Wirth," the 67-year-old camp owner says without varying the tone of his voice.

"And the next year his brother came, Tim Wirth."

"It was an absolutely wonderful experience," says Wirth, who is now a senator from Colorado.

"We all lived in old army tents. . . . Laura did the cooking, and we all washed dishes."

Wirth, whose father died when he was 3, says Sandy Sanborn acted as a surrogate father to him and his brother.

And he attributes much of his concern for environmental issues to Sanborn.

"If people are mad at my environmental commitments, they should write Sandy," he says.

Summer camp, however, wasn't a year-round profession at first. When the summers faded into autumn, Sandy and his wife taught school in Florissant. Both had teaching certificates.

For four years, Sandy was the principal, supervisor, janitor and only teacher at the high school. Laura taught fifth through eighth grades.

Sandy, who has never been a big advocate of formal education, took a different approach to teaching, particularly with foreign languages.

"I'd say, OK. You guys have gotta learn a foreign language, and I don't know any. So, why don't we get some Spanish records, and we'll all go to Mexico." And the entire high school would go to Mexico.

As the camp grew, the Sanborns retired from teaching and concentrated on outdoor programs.

Today, each camp takes 150 students for at least five weeks.

Outdoor education has become one of Sanborn's specialties. He went on to develop an outdoor education program in 1967 for District 11 sixth-graders as a supplement to the curriculum.

He likes to report that he has taken more than 125,000 sixth-graders and gotten them "jazzed" on the great outdoors.

Now, he works with sixth-graders from the Air Force Academy school district as well as with students from Pueblo and Cherry Creek.

The outdoor education program has 12 curriculums that last five days. In half-day intervals, the student must assume the role of a homesteader, Indian, trapper, prospector, woodsman, rancher, cowboy, crafter, entertainer, explorer, astronaut and time-matching traveler. They must use their imaginations to experience what it would be like to live as one of these people.

For his trail-blazing achievements in outdoor education, the University of Colorado gave Sanborn a distinguished service award last May for his "deep concern for the well-being of our fragile planet."

The award came as a surprise to Sanborn. He supports more of a hands-on experience in learning, and he likes to say that his college degree is from Moo U.

Yet, educators are a large part of The Nature Place's business, particularly after Sanborn opened the Pikes Peak Research Station four years ago.

The research station, comprising a laboratory, offices and a large collection of fossils and insects of the area, promotes research in the natural and social sciences.

The University of Florida uses it for geological field studies. The University of Colorado at Colorado Springs uses it for a stream-sedimentation research project.

The group of adults hiking down the narrow road is following ornithologist Richard Coles like a horde of children following the Pied Piper.

The knit of people is looking for prairie falcons, golden eagles and canyon wrens.

When Coles spots a Western teanager, the adults lift their binoculars in unrehearsed unison. The bird lifts its yellow, black and white wings close to its red head and alights on a tree branch.

Later a herd of bighorn sheep makes an appearance high on the rock. The beige color of their fur makes them almost indistinguishable from the hills.

Sanborn stands back and watches the adults experience the thrill of nature.

"I feel the payoff in this thing comes in more creativity in the world, a better understanding of our own place in society and a better understanding of society's place in the wholeness of Earth," he says.

"And in order to do that, you need some time to sit on a rock. You need to feel the sun, see the blue sky and smell the roses. Places where you can do that are getting pretty limited. That's why there's this place.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate on February 25, 1988, by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

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

[The nominations received today are printed at the end of the Senate proceedings.]

REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT—PM 112

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1986, the sixth year of my Administration. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

RONALD REAGAN.

THE WHITE HOUSE, *February 23, 1988.*

SUPERCONDUCTIVITY COMPETITIVENESS ACT OF 1988—MESSAGE FROM THE PRESIDENT—PM 113

The Presiding Officer laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and passage the "Superconductivity Competitiveness Act of 1988." This legislation is needed to help translate U.S. leadership in science into leadership in international commerce.

Scientific advances in superconductivity have taken place at a remarkable pace recently. In the estimation of one noted physicist, in the past year we have made 200 years worth of progress. As additional breakthroughs occur, the effect on our standard of living—indeed, our way of life—could be dramatic and unprecedented, in areas as diverse as transportation, energy, health care, computers, and communication.

By funding basic research, the Federal government has played a key role in these scientific breakthroughs. In Fiscal Year 1987, the Federal government spent about $55 million in superconductivity research. In Fiscal Year 1988, the Federal government will spend significantly more—increasing the annual spending to more than $100 million. Ultimately, however, our success in superconductivity will depend on the private sector, which will make the critical decisions on how much capital, time, and effort to invest in commercializing superconductivity.

On July 28, 1987, I announced an 11-point superconductivity initiative designed to help the private sector in its efforts to commercialize superconductivity. This initiative has these three objectives:

To promote greater cooperation among the Federal government, academia, and American industry in the basic and enabling research that is necessary to continue to achieve superconductivity breakthroughs;

To enable the U.S. private sector to convert scientific advances into new and improved products and processes more rapidly; and

To better protect the intellectual property rights of scientists, engineers, and other professionals working in superconductivity.

The Superconductivity Competitiveness Act of 1988 ("the Act") is a key part of this initiative. It will help ensure our readiness in commercializing recent and anticipated scientific breakthroughs.

Title I of the Act states the title of the legislation.

Title II amends the National Cooperative Research Act (NCRA) to cover joint production ventures. This is a particularly important step toward allowing U.S. firms to become more competitive with firms overseas in moving important research involving superconductivity and other fast-moving high technology areas from the laboratory to the marketplace.

Title II recognizes that unless U.S. firms are encouraged to organize their research and development activities in the most efficient manner possible, they cannot compete effectively with overseas firms. I should stress that the purpose of the NCRA is not to provide firms with immunity for anti-competitive behavior. Our antitrust statutes will continue to protect American consumers and businesses from harmful practices where they occur. This extension of the NCRA should promote innovation and productivity and will permit this country to maintain—or in some instances to regain—its position of world technological leadership.

Title III of the Act increases the protection of the U.S. patent laws for holders of U.S. process patents. Currently, there is no court-ordered remedy for patent infringement when a product made overseas, using a process that is patented in the United States, is imported into the United States. Title III would establish such a remedy and would permit U.S. manufacturing patent process holders to sue for injunctive relief and damages. (Relief of this nature is already available to process patent holders for products made in the United States using processes patented in the United States.) Title III would not extend the territorial application of American law. It would not prevent a foreign manufacturer from using a process overseas that is patented in the United States, as long as items manufactured under that process are not exported to the United States.

Title IV of the Act would provide protection for certain commercially valuable scientific and technical information generated in Federal government-owned and -operated laboratories. In particularly, Title IV recognizes that commercially valuable scientific and technological information generated in Federal facilities loses potential commercial value when it is released wholesale under the Freedom of Information Act (FOIA). In addition, mandatory disclosure of such information under FOIA could encourage U.S. competitors to exploit the U.S. science and technology base rather than making investments in their own research and development infrastructure. Under Title IV, Federal agencies will be required to withhold information of this nature requested under the Freedom of Information Act where disclosure could reasonably be expected to harm the economic competitiveness of the United States. This Title is not intended to end the U.S. tradition of sharing the benefits of our excellence in science and technology; it merely provides that the Freedom of Information Act may not always be the appropriate or best avenue for doing so.

I should note that my Administration is currently developing a uniform policy to permit Federal contractors to own the rights to technical information that they develop for the government. This is intended to provide these contractors with proprietary rights equal to those of other firms that submit technical information to the government that was developed at private expense. Because our policy in this area is still under development, Title IV has been drafted to apply only to Federal government-generated, government-owned scientific and technical information.

Title V specifies the effective date of the Act.

There is a growing realization that, although the United States has long been a leader in breakthroughs in the laboratory, it has occasionally failed to convert these breakthroughs into commercial applications. This Act, in conjunction with the other components of our superconductivity initiative, can and will speed the process of commercialization. There is no time to waste in this effort. I urge the Congress to

act promptly and favorably upon this legislative proposal.

RONALD REAGAN.

THE WHITE HOUSE, *February 23, 1988.*

ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit the 1987 Report of the United States Arms Control and Disarmament Agency. It reviews the negotiation process used in achieving the INF Treaty and contains a copy of the Treaty itself. That Treaty, signed by General Secretary Gorbachev and me on December 8, 1987, is the first treaty of the nuclear era requiring the elimination of an entire category of U.S. and Soviet nuclear weapons.

The report provides information about the ongoing negotiations for a 50-percent reduction to equal levels in U.S. and Soviet strategic nuclear offensive arms, an effective and verifiable ban on chemical weapons, and the correction of disparities in conventional forces. Also described are the ancillary activities of the Arms Control and Disarmament Agency in support of our arms control policies and, concomitantly, the security of the United States.

The INF Treaty constitutes a breakthrough in verification, the most far-reaching in the history of arms control, and should serve as a guide for other treaties to come. The political and economic advantages of carefully negotiated and effectively verifiable arms reductions hold great promise of peace, security, and continued prosperity for our country. The 1987 record of progress toward those goals is contained in this 27th ACDA Report.

RONALD REAGAN.

THE WHITE HOUSE, *February 23, 1988.*

TRUTH IN FEDERAL SPENDING ACT OF 1988—MESSAGE FROM THE PRESIDENT—PM 115

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was, pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs:

To the Congress of the United States:

I am forwarding today for your immediate consideration and prompt passage a legislative proposal entitled the "Truth in Federal Spending Act of 1988."

On November 20 of last year, I agreed with congressional leaders on a package designed to reduce the Federal deficit. That Bipartisan Budget Agreement between the President and the joint leadership of the Congress reflects a strong consensus that Federal spending must be brought under control.

Continued spending growth, particularly where wasteful or unnecessary, adds to the Federal deficit and absorbs resources that would otherwise be employed more fruitfully in the private sector of the economy. The Bipartisan Budget Agreement represents an important step in reducing spending growth. But protecting the Federal budget from special interest, budget-busting legislation requires a continued, ongoing commitment. Despite recent encouraging efforts to bring the Federal budget deficit under control, major problems persist.

On July 3 of last year, when I outlined our Economic Bill of Rights, I described a proposal for the legislation that I am forwarding to the Congress today. It is designed to discourage wasteful Federal spending by requiring both the Legislative and Executive branches of government to be fully accountable for their respective actions. Key provisions of this draft bill would:

Insure that all legislation that would result in increased Federal spending is deficit-neutral by requiring the concurrent enactment of equal amounts of program reductions or revenue increases;

Require that all legislation include a "financial impact statement" detailing the measure's likely economic effects upon the private sector and State and local governments;

Require that regulations and proposed regulations promulgated by executive branch agencies also be accompanied by financial impact statements; and

Permit waiver of the requirements of the act during time of war or during a national security emergency.

In making this important proposal, one point deserves special emphasis. In complying with the deficit neutrality requirements of the Truth in Federal Spending Act of 1988, some may be tempted simply to shift spending requirements, either expressly or implicitly, from the Federal government to State and local governments. This is not, however, and should not be interpreted as being, the intent of this initiative. Instead, through enactment of this landmark legislation, we seek to achieve an historic breakthrough: to make the Federal Government—both the Legislative and Executive branches—more fully accountable for its actions and the effects of those actions on all the citizens of our Nation and, in so doing, get its fiscal house in order.

Enactment of the Truth in Federal Spending Act of 1988 will help us to carry out the important goals reflected in the Bipartisan Budget Agreement of November 20, 1987. It will also continue the important work we have accomplished in reducing or eliminating needless Federal expenditures. It is worthy of broad, bipartisan support. Accordingly, I urge its prompt and favorable consideration.

RONALD REAGAN.

THE WHITE HOUSE, *February 24, 1988.*

MESSAGES FROM THE HOUSE

At 3:57 p.m., on February 23, 1988, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 2101 of Public Law 100-203, the minority leader appoints the following individuals on the part of the House to the National Economic Commission: Mr. FRENZEL; and, from private life, Mr. Donald H. Rumsfeld of Wilmette, IL.

At 1:38 p.m., on February 25, 1988, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills:

H.R. 3689. An act to designate the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, as the "H.R. Gross Post Office Building"; and

H.R. 3980. An act to make technical corrections to the agricultural credit laws.

The message also announced that pursuant to the provisions of section 276(h) of title 22 of the United States Code, the Speaker appoints as members of the United States delegation of the Mexico-United States Interparliamentary Group for the second session of the 100th Congress, the following Members on the part of the House; Mr. DE LA GARZA, chairman; Mr. YATRON, vice chairman; Mr. GIBBONS; Mr. RANGEL; Mr. MILLER of California; Mr. GEJDENSON; Mr. COLEMAN of Texas; Mr. LAGOMARSINO; Mr. DREIER of California; Mr. DELAY; Mr. GILMAN; and Mr. GOODLING.

The message further announced that pursuant to Public Law 96-114, as amended by Public Law 98-33 and Public Law 99-161, the minority leader appoints the following individuals from the private sector as members of the Congressional Award Board on the part of the House: Mr. George R. Layne, of Fairfax Station, VA; Mr. Santee C. Riffin, Jr., of Reston, VA; and Mr. Murriel F. Price, of Fairfax, VA, vice Mrs. Roberta Van Der Voort, of Kansas City, MO; Mr. John G. McMillian, of Washington, DC; and Mr. W. Clement Stone, of Chicago, IL; resigned.

At 2:45 p.m., on February 25, 1988, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 246. A concurrent resolution condemning the bombing by North Korean agents of Korean Air Lines flight 858; and

H. Con. Res. 250. A concurrent resolution expressing confidence that the people of El Salvador will reject efforts to disrupt the election to be held in that country on March 20, 1988, and will avail themselves of the opportunity to vote in that election.

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 246. A concurrent resolution condemning the bombing by North Korean agents of Korean Air Lines flight 858; to the Committee on Foreign Relations.

H. Con. Res. 250. A concurrent resolution expressing confidence that the people of El Salvador will reject efforts to disrupt the election to be held in that country on March 20, 1988, and will avail themselves of the opportunity to vote in that election; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3980. An act to make technical corrections to the agricultural credit laws.

REPORTS OF COMMITTEES

The following reports of committees were submitted on February 24, 1988:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 59: A joint resolution to designate the month of May 1987 as "National Foster Care Month."

S.J. Res. 147: A joint resolution designating the week beginning on the third Sunday of September in 1987 and 1988 as "National Adult Day Care Center Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 199: A joint resolution to designate the month of May, 1988, as "Trauma Awareness Month."

S.J. Res. 212: A joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week."

S.J. Res. 227: A joint resolution to express gratitude for law enforcement personnel.

S.J. Res. 229: A joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day."

S.J. Res. 234: A joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

S.J. Res. 237: A joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month."

S.J. Res. 240: A joint resolution to designate the period commencing on May 16, 1988 and ending on May 22, 1988, as "National Safe Kids Week."

S.J. Res. 244: A joint resolution to designate the month of April, 1988, as "National Know Your Cholesterol Month."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S.J. Res. 247: A joint resolution to authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 249: A joint resolution designating June 14, 1988 "Baltic Freedom Day."

S.J. Res. 250: A joint resolution designating the week of May 8, 1988, through May 14, 1988, as "National Osteoporosis Prevention Week of 1988."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and an amended preamble:

S.J. Res. 251: A joint resolution designating March 4, 1988, as "Department of Commerce Day."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 252: A joint resolution designating June 5-11, 1988, as "National NHS Neighbor Works Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 253: A joint resolution designating April 9, 1988 and April 9, 1989, as "National Former Prisoner of War Recognition Day."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 254: A joint resolution to designate the period commencing on May 15, 1988, and ending on May 21, 1988, as "National Health Awareness Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S.J. Res. 255: A joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988 as "National Organ and Tissue Donor Awareness Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 257: A joint resolution to authorize and request the President to issue a proclamation designating March 21, 1988, as "Afghanistan Day," a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.

S.J. Res. 260: A joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

S.J. Res. 262: A joint resolution to designate the month of March 1988, as "Women's History Month."

The following reports of committees were submitted on February 25, 1988:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2097: An original bill to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

● Mr. JOHNSTON. Mr. President, today I am reporting a clean bill from the Committee on Energy and Natural Resources. This bill, the Uranium Revitalization, Tailings Reclamation and Enrichment Act, is essentially the same as S. 1846, the comprehensive uranium legislation reported out of the Energy Committee on October 1, 1987. There are two important differences between this bill and S. 1846.

First, the new bill lacks the system of charges for usage of foreign uranium above a certain percentage that was contained in S. 1846. Second, this bill does not address the status of the United States Enrichment Corporation [USEC] with respect to Federal income taxation.

This is not to indicate that these issues are unimportant. Unfortunately, however, the Finance Committee has objected to the consideration of S. 1846, and has asked for referral of certain sections of that legislation to their committee. They believe that section 1602, which provides that the USEC be exempt from Federal income taxation, and section 113, which imposes a fee on the use of foreign uranium above a certain percentage, contains matter within the jurisdiction of the Finance Committee.

We have removed these provisions from our bill in order to expedite consideration of the uranium legislation on the Senate floor. We have not forgotten them.

In fact, Mr. President, I would like to submit an amendment for myself, Mr. MCCLURE, Mr. FORD, Mr. DOMENICI, Mr. BINGAMAN, and Mr. WALLOP that contains the language that has been deleted from S. 1846.

Mr. President, there will be no report filed on the new uranium legislation. The committee intends that the language contained in Senate Report 100-214 apply to both the new uranium bill, as well as to the amendment we are currently introducing to that new bill.

Mr. President, in addition, I would like to submit for myself and Mr. MCCLURE, an amendment to the bill reported today that had been previously introduced as amendment 1375 to S. 1846. This amendment alleviates the concerns of the Senate Budget Committee regarding the budgetary status of the USEC.

Also, I understand that Senator FORD will be submitting an amendment to the uranium bill reported today that he had introduced as amendment 1383 to S. 1846. His amendment acknowledges an agreement between the Department of Energy and the Tennessee Valley Authority regarding contractual liabil-

ities for power not taken and other areas.

I hope that we can now clear the way for prompt floor consideration of the uranium mining, reclamation and enrichment issues as soon as possible. I also ask consent that the uranium bill introduced today be printed together in today's RECORD.

(The text of the amendments submitted to the legislation is printed in today's RECORD under "Amendments Submitted".)

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

S. 2097

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 "Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds for purposes of titles I and II of this Act that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mills, more than a 75 per centum drop in production, closure of many mines, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past five years and have resulted in the domestic uranium industry being found "not viable" by the Secretary of Energy under provisions of the Atomic Energy Act of 1954, as amended;

(5) re-establishing a viable domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942):

(A) was enacted to provide for the reclamation and regulation of uranium mill tailings; and

(B) did not provide for a comprehensive method of financing reclamation and remedial action at active uranium and thorium processing sites;

(7) the owners or licensees of active uranium mills, the States in which such active mills are located, the Federal Government, and owners or licensees of civilian nuclear power reactors have each benefited from uranium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial action at the active sites; and

(8)(A) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites; and

(B) financing should be shared on an approximately equal basis by owners or licensees of active uranium mills, the Federal Government, and the owners or licensees of civilian nuclear power reactors, with support from the States in which the active sites are located.

(b) PURPOSE.—It is the purpose of titles I and II of this Act to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and the Nation's nuclear power program;

(2) re-establish a viable domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

DEFINITIONS

SEC. 3. For purposes of titles I and II of this Act—

(1) the terms "active uranium or thorium processing site" and "active site" mean—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after, January 1, 1978; and

(B) any other real property or improvement on such real property that—

(i) is in the vicinity of such site; and

(ii) is determined by the Commission to be contaminated with residual byproduct material.

(2) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(3) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(4) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(5) the term "Commission" means the Nuclear Regulatory Commission;

(6) the term "Department" means the Department of Energy;

(7) the term "overfeeding" means the use of natural uranium from stockpiles or inventories to produce enriched uranium when—

(A) an enrichment services customer supplies less natural uranium than the amount actually used to produce its enriched uranium requirements; and

(B) for purposes of achieving efficient operation of enrichment facilities, natural uranium from stockpiles or inventories is used to satisfy the shortfall in natural uranium supplied by such customer;

(8) the term "pre-production of enriched uranium" means the use at a given point in time of natural uranium from existing stockpiles or inventories to produce enriched uranium in excess of amounts required to satisfy then current obligations to provide enrichment services;

(9) the term "reclamation, decommissioning and other remedial action" includes long- and short-term monitoring, except for the purpose of determining the date when reclamation, decommissioning, and other remedial action is complete for the purpose of making refunds under section 215. Such term shall include mill decommissioning only if the owner or licensee of an active site elects to make the contribution provided for in section 213(b)(1)(C);

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meanings given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

TITLE I—URANIUM REVITALIZATION

SEC. 110. GOVERNMENT URANIUM PURCHASES.—(a)(1) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall not enter into contracts or orders for the purchase of uranium other than for domestic uranium: *Provided,* That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered before the date of enactment of this Act, or options exercised for fixed amounts prior to the date of enactment of this Act.

(2) The use of natural uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, shall be restricted to military purposes and Government research and to overfeeding and pre-production of enriched uranium by the United States Enrichment Corporation. The amount of natural uranium together with the amount of natural uranium equivalent of enriched uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, as of the date of enactment of this title shall, to the extent practicable, not be reduced except for military purposes, overfeeding, or Government research purposes.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

TITLE II—TAILINGS RECLAMATION

REMEDIAL ACTION PERFORMED BY THE OWNER OR LICENSEE OF ACTIVE SITES

SEC. 210. IN GENERAL.—(a) The owner or licensee of an active site shall select and perform reclamation, decommissioning, and other remedial action, at active sites.

(b) REMEDIAL ACTION TO BE PERFORMED IN ACCORDANCE WITH APPLICABLE STANDARDS.—Any reclamation, decommissioning, or other remedial action performed under subsection (a) by an owner or licensee shall comply with all applicable requirements established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or, where appropriate, requirements established by a State that is a party to a discon-

tinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021).

(c) COSTS OF REMEDIAL ACTION TO BE PAID FROM TAILINGS FUND.—The costs incurred by the owner or licensee for reclamation, decommissioning and other remedial action, performed by the owner or licensee under this title shall be reimbursed under sections 214, 215, and 216 from the Uranium Mill Tailings Fund established in section 211.

(d)(1) The following active sites qualify for reimbursement from the Uranium Mill Tailings Fund in accordance with the terms of this title:

Site	Estimated tons of mill tailings July 1, 1985
Cotter—Cannon City Mill, Cannon City, CO	2,200,000
UMETCO—Uravan Mill, Uravan, CO	10,300,000
Sohio Western—L-Bar Mill, Seboyeta, NM	2,100,000
United Nuclear—Churchrock Mill, Churchrock, NM	3,500,000
Anaconda—Bluewater Mill, Grants, NM	23,600,000
Quivera Mining—Ambrosia Lake Mill, Grants, NM	33,000,000
Homestake—Grants Mill, Grants, NM	21,800,000
Conoco—Pioneer Nuclear, Conquista Project, Falls City, TX	8,800,000
Chevron Resources—Panna Maria Mill, Hobson, TX	4,600,000
Exxon—Felder Facility, Three Rivers, TX	400,000
Rio Algom—Lisbon Mill, Moab, UT	3,000,000
Atlas—Moab Mill, Moab, UT	10,500,000
Dawn—Ford Mill, Ford, WA	3,000,000
Western Nuclear—Sherwood Mill, Wellpinit, WA	2,900,000
American Nuclear—Gas Hills Mill, Riverton, WY	5,900,000
Pathfinder—Lucky Mc Mill, Riverton, WY	9,500,000
Western Nuclear—Split Rock Mill, Jeffrey City, WY	7,700,000
UMETCO—East Gas Hills Mill, Riverton, WY	9,200,000
Exxon—Highland Mill, Douglas, WY	7,200,000
Rocky Mountain Energy—Bear Creek Mill, Douglas, WY	5,000,000
Pathfinder—Shirley Basin Mill, Shirley Basin, WY	5,800,000
Petrotomics—Shirley Basin Mill, Shirley Basin, WY	6,300,000
Energy Fuels/UMETCO—White Mesa Mill, Blanding, UT	1,900,000
Minerals Exploration—Red Desert, Rawlins, WY	1,000,000
UMETCO—Maybell, Maybell, CO	2,000,000
Tennessee Valley Authority—Edgemont, SD	2,000,000

(2) Within one hundred and eighty days of the date of the enactment of this title, the Secretary shall determine the actual amounts of mill tailings at each of the active sites listed in paragraph (1) on the date of the enactment of this title, and the dry tons of tailings at each active site listed in paragraph (1) the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission.

(3) No reimbursement for the reclamation, decommissioning and other remedial action performed at a uranium mill tailings site shall be made in accordance with the terms of this title for an active site not listed in paragraph (1) or for reclamation, decommissioning and other remedial action of mill tailings at a listed active site in excess of the actual amount of tailings determined by the Secretary under this paragraph to exist on the date of the enactment of this title.

URANIUM MILL TAILINGS FUND

SEC. 211. (a) ESTABLISHMENT OF URANIUM MILL TAILINGS FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Uranium Mill Tailings Fund (hereinafter referred to as the "Fund"). The Fund shall consist of—

(1) all contributions to the Fund from the States in which active sites are located as provided in section 212(a);

(2) all contributions to the Fund from owners or licensees of active sites as provided in section 212(b);

(3) all contributions made to the Fund by or on behalf of the Federal Government as provided in section 212(c);

(4) all fees received from owners or operators of civilian nuclear power reactors as provided in section 212(d); and

(5) all interest earned on sums in the Fund.

(b) USE OF FUND.—The Secretary may, subject to subsection (c), make expenditures from the Fund only for purposes of compliance with this title.

(c) ADMINISTRATION OF THE FUND.—(1) The Secretary of the Treasury, after consultation with the Secretary, shall annually submit to the Congress a report on the financial condition and operation of the Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Fund to the Office of Management and Budget annually along with the budget of the Department in accordance with chapter 11 of title 31, United States Code. The budget of the Fund shall consist of the estimates made by the Secretary of receipts by and expenditures from the Fund and other relevant financial matters for the succeeding three fiscal years, and shall be included in the Budget of the United States Government.

(3) If the Secretary determines that the Fund contains at any time amounts in excess of current needs, the Secretary shall request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Fund, shall be exempt from annual apportionment under the provisions of subchapter 11 of chapter 15 of title 31, United States Code.

(5) The Secretary may make disbursements from the Fund in amounts provided in advance in appropriations acts, which amounts shall be made available until expended.

CONTRIBUTIONS TO THE FUND

SEC. 212. (a) CONTRIBUTIONS BY STATES CONTAINING ACTIVE SITES.—(1) Each State containing an active site or sites may contribute from non-Federal funds to the Treasury of the United States to be deposited in the Fund the sum of $0.10 for each dry ton of tailings, the uranium from which was processed for commercial sales as established in accordance with section 210(d) at an active site listed in section 210(d)(1) within such State whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund.

(2) Such payment shall be made in five equal annual installments commencing January 1, 1990.

(3) If any State containing an active site or sites, whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund, fails or refuses to make the contributions, or any portion thereof, required by this section, this shall not affect the right of the owner or licensee of an active site in such State to participate in reclamation, decommissioning and other remedial action through the Fund.

(b) CONTRIBUTIONS BY OWNERS OR LICENSEES.—(1) Each owner or licensee of an active site listed in section 210(d)(1) who elects to participate in reclamation, decommissioning, and other remedial action, through the Fund shall contribute to the Treasury of the United States, to be deposited in the Fund—

(A) $2,000,000 per site as to which it is the owner or licensee of which—

(i) $1,000,000 shall be contributed on or before January 31, 1990; and

(ii) $1,000,000 shall be contributed on or before January 31, 1991;

(B) $1 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act of which—

(i) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1992; and

(ii) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1993; and

(C) each owner or licensee of an active site listed in section 211(d)(1) who elects to decommission the mill at such site as a part of the reclamation, decommissioning and other remedial action to be undertaken pursuant to the Fund shall contribute an additional $500,000 on or before January 31, 1994.

(c) CONTRIBUTIONS BY OR ON BEHALF OF THE FEDERAL GOVERNMENT.—(1) There is authorized to be appropriated to the Fund,

$300,000,000, to remain available until expended.

(2) Funds to be paid into miscellaneous receipts of the Treasury of the United States under section 1506 of the Atomic Energy Act of 1954, as amended, shall, without need for further appropriation, be paid into the Fund until $300,000,000 has been contributed to the Fund under this subsection. The authorization provided under paragraph (1) shall be reduced to the extent of contributions made under this paragraph.

(d) CONTRIBUTIONS BY LICENSEES OF CIVILIAN NUCLEAR POWER REACTORS.—(1) Licensees for civilian nuclear power reactors shall contribute into the Fund a fee of $22 per kilogram of uranium contained in fuel assemblies initially loaded into each civilian nuclear power reactor during each of the calendar years 1989 through 1993.

(2) The fee shall apply to fuel on its initial loading into the reactor and not to previously loaded fuel being loaded again. In calculating the total annual obligation by a licensee, fuel loaded in loadings during refueling outages that begin in a calendar year and are completed in the subsequent year may be deemed to have occurred in either year but not both.

(3) The fee from each user so affected will be due on January 31 the following year with the first such payment due on January 31, 1990.

(4) The contribution of this fee for the years 1989 through 1993 shall constitute the total obligation of licensees of civilian nuclear power reactors for uranium tailings reclamation, except to the extent that a user may be the owner or licensee of a uranium mill or as provided by contract executed prior to the effective date of this Act.

(5) Not later than one hundred and eighty days after the date of enactment of this Act the Secretary shall establish procedures for the collection and payment of the fee established by this title.

ELECTION TO PARTICIPATE

SEC. 213. OWNER OR LICENSEE ELECTION TO PARTICIPATE.—The owner or licensee of an active site listed in section 210(d)(1) may elect to perform reclamation, decommissioning and other remedial action through the Fund and be entitled to receive reimbursement under this title for the cost incurred by such owner or licensee for reclamation, decommissioning and other remedial action performed in connection with the owner's or licensee's active site by notifying the Secretary of such election on or before January 1, 1989. If an owner or licensee makes an election to participate, the notice shall specify whether the owner or licensee elects to have decommissioning undertaken pursuant to the Fund. Such election to participate or not to participate shall be irrevocable.

REIMBURSEMENT OF COSTS INCURRED FOR RECLAMATION, DECOMMISSIONING AND OTHER REMEDIAL ACTION FROM FUND

SEC. 214. (a) IN GENERAL.—The Secretary shall reimburse from the Fund to the owner or licensee of an active site listed in section 210(d)(1) who has elected to participate as provided in section 213, the costs incurred by such owner or licensee for the reclamation, decommissioning and other remedial actions in connection with such site as follows:

(1) From the contributions made on behalf of the Federal Government as provided in section 212(c), such owner or licensee shall be reimbursed an amount equal to the cost of reclamation, decommissioning, and other remedial action at such site multiplied by the percentage which the dry tons of tailings at such site, the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission, constitutes to the total dry tons of tailings at such active site as determined in section 210(d)(2), but such reimbursement shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings at such active site, the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission.

(2) From any contributions made by a State to the Fund for tailings reclamation at such site, such owner or licensee shall be reimbursed an amount equal to the sum of such contributions.

(3)(A) From the contributions made by the owner or licensee of such active site plus the interest earned thereon, such owner or licensee shall be reimbursed one-third of the cost of reclamation, decommissioning and other remedial action at such site.

(B) Notwithstanding subparagraph (A), if the contributions made by the owner or licensee of such active site plus interest earned thereon exceed one-third of the cost of reclamation, decommissioning and other remedial action at such site, such excess shall be refunded to such owner or licensee. The payment of such excess shall be considered a refund and not reimbursement. If the contributions made or to be made by the owner or operator of such active site, plus interest earned thereon, is less than one-third of the cost of reclamation, decommissioning, and other remedial action at such site, then the amount by which one-third of the cost of reclamation, decommissioning, and other remedial action at such site exceeds the amount of contributions made by the owner or licensee of such active site plus interest earned thereon, shall be borne by the owner or licensee thereof.

(4) From the contributions made by licensees of civilian nuclear power reactors as provided in section 212(d) and interest earned thereon, the owner or licensee of such active site shall be reimbursed the amount by which the cost of reclamation, decommissioning, and other remedial action at an active site exceeds the sum of—

(A) the amounts reimbursed to the owner or licensee of such active site as provided in paragraph (1), paragraph (2), paragraph (3); and

(B) the amounts to be borne by the owner or licensee of such active site as provided in subparagraph (3)(B).

(5) Notwithstanding paragraphs (1) through (4), the owner or licensee of an active site shall also bear, and not be reimbursed for, any amount by which the cost of reclamation, decommissioning and other remedial action at such site exceeds a sum equal to $4.50 multiplied by the dry tons of tailings at such site as determined in section 210(d)(2).

(6) The successor to the owner or licensee of an active site (other than the United States or agency thereof or a State as provided by law) shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

(b) OWNER'S OR LICENSEE'S ACCOUNT.—The Secretary shall maintain accounts for each participating owner or licensee to reflect contributions by such owner or licensee, interest deemed earned on such contributions, reimbursements to such owner or licensee from the Fund, and the cost incurred by the owner or licensee for the reclamation, decommissioning or other remedial action in connection with such active site.

(c) ACCOUNTS FOR OTHER CONTRIBUTIONS TO THE FUND.—(1)(A) For the purpose of accounting, two-thirds of the costs incurred by participating owners or licensees at active sites, up to the maximum of $4.50 per dry ton of tailings at such sites as of the effective date of this Act (such two-thirds being $3 per dry ton based upon $4.50 per dry ton of tailings), shall be deemed to have been reimbursed from the Fund out of the portion of the Fund contributed:

(i) by or on behalf of the Federal Government as provided in section 212(c),

(ii) by the States that have contributed as provided in section 212(a), and

(iii) by the licensee of civilian nuclear power reactors as provided in section 212(d);

and from interest deemed earned upon such contributions.

(B) The Secretary shall maintain accounts for each such person or entity making contributions to the Fund, reflecting the time and amount of such contributions and the interest deemed earned thereon.

(2) The Secretary shall determine as of January 31, 1996, whether the amount remaining in the Fund, other than the amounts contributed by participating owners or licensees of active sites and interest deemed earned thereon, when considered with the $4.50 per dry ton limit on reimbursement, exceeds the total cost reimbursable to the participating owners or licensees of active sites (other than that deemed reimbursed out of such participating owners' or licensees' contributions and interest deemed earned thereon or to be borne by owners or licensees), where reclamation, decommissioning and other remedial action has not been completed.

(3) If the Secretary determines there is an excess, then the excess shall be refunded as set forth in subsection (d): *Provided, however,* That no amounts contributed to the Fund by the participating owners or licensees of the active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assigns.

(d) REFUNDS TO CERTAIN CONTRIBUTORS.—The Secretary shall make a determination annually after January 31, 1996, whether an excess as calculated pursuant to subsection (c) exists in the Fund. If, as of January 31, 1996, and each January 31 thereafter, the Secretary determines that the Fund contains an excess as calculated in subsection (c), then the Secretary shall refund the excess as follows:

(1) first, to the States which have made contributions to the Fund as provided in section 212(a), until such States have been refunded the full amount of their contributions;

(2) the remaining excess, if any, shall be deposited in the Treasury of the United States.

(e) INTEREST DEEMED EARNED.—For the purposes of this title, the contributions made by any person or entity shall be deemed to have earned interest annually on the contribution from the date made. The appropriate interest rate for each year shall be determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States with one year maturity during the year for which calculation is being made: *Provided, however,* That contributions made by any participating owners

or licensees of active sites shall be deemed to bear interest during any such year only to the extent that the contributions made by such owner or licensee exceeds one-third of the costs reimbursed out of the Fund to such owner or licensee up to that time.

LIMITATION OF REIMBURSEMENT

SEC. 215. (a) $4.50 PER TON LIMIT.—The total reimbursement from the Fund to the owner or licensee of an active site shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings located at the site as of the effective date of this Act, as determined in accordance with the requirements of section 210(d). Costs in excess of $4.50 per ton shall be borne by the owner or licensee of the active site on its own account outside the Fund.

(b) INFLATION ESCALATION INDEX.—The $4.50 per dry ton multiplier provided in subsection (a) shall be increased annually based upon an inflation escalation index. The Secretary shall determine the appropriate index to apply.

TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE

SEC. 216. (a) IN GENERAL.—An owner or licensee of an active site who has elected to participate pursuant to section 213 shall be entitled to reimbursement from the Fund, to the limits provided, for the costs incurred for the reclamation, decommissioning and other remedial action in connection with such active site on the basis of tailings existing at such active site as on the date of the enactment of this title. The participating owner or licensee of an active site shall be responsible on its own account outside the Fund for the costs incurred for the reclamation, decommissioning and other remedial action associated with tailings generated at such active site after the date of the enactment of this title.

(b) ACTIVE SITES CONTAINING TAILINGS GENERATED BEFORE AND AFTER THE DATE OF THE ENACTMENT OF THIS TITLE.—If an active site whose owner or licensee has elected to participate contains tailings generated both before and after the date of the enactment of this title, then it shall be assumed that the costs incurred by the owner or licensee for the reclamation, decommissioning and other remedial action in connection with such site were incurred pro-rata based upon the dry tons of tailings generated before and after such date of enactment as determined on the basis of the Secretary's findings under section 210(d)(2), unless the Secretary determines that the costs incurred in connection with the tailings generated after the date were less than would result from the pro-rata formula, in which event such lower amount shall be used for the purposes thereof.

THORIUM SITES

SEC. 217. IN GENERAL.—(a) The costs of reclamation, decommissioning, and other remedial action at active thorium sites shall be borne by the licensee or owner, subject to reimbursement by the United States for a portion of the costs at any such site if tailings at the site were generated as an incident of sales to the United States, or any of its agencies and instrumentalities. The portion of the costs to be allocated to the United States shall be determined by the ratio of the volume of tailings that were generated as an incident of sales to the United States, or any of its agencies and instrumentalities, to the total volume of tailings at the site. Owners or licensees shall decide by January 1, 1989, whether they have tailings subject to Federal reimbursement and so notify the Secretary. Subject to such notification and confirmation of the existence of tailings eligible for reimbursement as described above, the Secretary shall enter into a cooperative agreement with the owner or licensee of the site providing for the payment by the United States of its portion of the cost of reclamation, decommissioning and other remedial action.

(b) For the purpose of carrying out the provisions of this section, such funds as necessary are hereby authorized to be appropriated.

MAINTENANCE OF FUND BALANCE

SEC. 218. IN GENERAL.—The Secretary shall manage disbursements from the Fund such that it never is in a deficit on a cash basis. Reimbursements to owners or licensees may be delayed until receipts allow disbursements. In such cases, owners or licensees of active sites will be treated pro-rata where only partial reimbursements can be made.

INTEREST ON COSTS INCURRED

SEC. 219. IN GENERAL.—Reimbursement from the Fund for costs incurred shall include interest at the rate provided in section 214(e) on costs incurred by the participating owner or licensee of an active site from the date a statement for reimbursement of such cost is submitted by the owner or licensee to the Secretary until reimbursement for such cost is made from the Fund.

LIMITATION OF FINANCIAL OBLIGATIONS

SEC. 220. LIMITATION ON FINANCIAL OBLIGATION OF ACTIVE SITE OWNERS AND LICENSEES AND LICENSEES USING SOURCE MATERIAL OR SPECIAL NUCLEAR MATERIAL FOR A CIVILIAN NUCLEAR POWER REACTOR TO GENERATE ELECTRICAL ENERGY.—The contributions made and work performed by the owners or licensees of the active sites and the contributions made and fines paid by persons using source material or special nuclear material for a civilian nuclear power reactor to generate electrical energy shall be the sole liability and obligation imposed under Federal laws in connection with the reclamation, decommissioning and other remedial action at active uranium and thorium sites: *Provided, however,* That nothing herein contained shall affect the obligation of every owner or licensee to provide for such long-term care or other reclamation requirements as are provided in the Uranium Mill Tailings Radiation Control Act of 1978, the regulations of the Commission thereunder, and the regulations of the Environmental Protection Agency thereunder.

RECLAMATION ALREADY UNDERTAKEN

SEC. 221. IN GENERAL.—The owner or licensee of a participating active site who has undertaken reclamation, decommissioning and other remedial action at such site prior to the date of the enactment of this title shall be entitled to reimbursement for the cost thereof as if the work was done after such date if such work, including disposal work, was accomplished in order to comply with the standards under section 210(b). The timing of such reimbursement shall be subject to the management of the Fund as specified in section 218. An owner or licensee of an active site which has elected to participate in the Fund and has performed reclamation work prior to the date of the enactment of this title may have any sums to which it is entitled to be reimbursed credited against any sum it is required to contribute. The Commission shall determine whether work performed at a site prior to such date was accomplished in order to comply with the standards under section 210(b) and advise the Secretary accordingly.

SECRETARY'S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS

SEC. 222. IN GENERAL.—The secretary shall adopt and issue regulations to accomplish the purposes of this title and shall review statements by participating owners or licensees for reimbursement from the Fund of costs incurred for reclamation, decommissioning and other remedial actions. Any such statement for reimbursement found appropriate shall be approved by the Secretary and reimbursement therefore shall be made from the Fund.

ATOMIC ENERGY ACT OF 1954

SEC. 223. STANDARDS AND INSTRUCTIONS FOR BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS, INCLUDING PERFORMANCE BONDS.—Section 161 x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201 x.) is amended by inserting after the word "ensure" in the matter preceding paragraph (1) a comma and the following: "for the share of costs for which the licensee is responsible".

TITLE III—UNITED STATES ENRICHMENT CORPORATION

SEC. 310. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. section 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY"; and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

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"CHAPTER 26. LICENSING, TAXATION AND MISCELLANEOUS PROVISIONS

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"(a) The enrichment of uranium is essential to the national security and energy security of the United States.

"(b) A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"(c) A strong United States enrichment enterprise promotes U.S. nonproliferation policies by requiring accountability for U.S. enriched uranium.

"(d) The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"(e) The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of uranium enrichment services.

"(f) The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"(g) Flexibility is essential to adapt business operations to a competitive marketplace.

"(h) The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"(i) The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION, AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"(a) The term 'Secretary' means the Secretary of Energy.

"(b) The term 'Department' means the Department of Energy of the United States.

"(c) The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"(d) The term 'Corporation' means the United States Enrichment Corporation.

"(e) The term 'Advisory Board' means the appointed members of the official advisory panel appointed by the Secretary pursuant to section 1503 of this title.

"(f) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—(a) There is hereby created a body corporate to be known as the 'United States Enrichment Corporation.'

"(b) The Corporation shall—

"(1) be established as a wholly-owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. section 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"(1) to acquire feed material for uranium enrichment, enriched uranium and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development for purposes of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a continuing, commercial enterprise, on a profitable and efficient basis;

"(6) to maintain a reliable and economical domestic source of enrichment services;

"(7) to conduct its activities in a manner consistent with the health and safety of the public and the common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(8) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"(a) shall perform uranium enrichment or provide for such enrichment to be performed by others at facilities of the Corporation. The Corporation shall continue in effect contracts in existence as of the date of the enactment of this section between the Department and persons currently under contract to perform uranium enrichment at facilities of the Department;

"(b) shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"(c) may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"(d) may, to the extent consistent with section 110 of the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law: *Provided*, That comparable services are made available pursuant to paragraph (1);

"(e) shall sell to the Department as provided in this title, and without regard to the provisions of 31 U.S.C. 1535, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"(f) may grant licenses, both exclusive and nonexclusive, for the use of patents and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporations activities;

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the corporation—

"(a) shall have perpetual succession unless disolved by Act of Congress;

"(b) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(c) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"(d) may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"(e) may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"(f)(1) may acquire, purchase, lease, and hold real and personal property, including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of fur-

thering the purposes of this title, or that advertising is not reasonably practicable;

"(g) with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency or, any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"(h) may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"(i) may determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"(j) notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"(k) may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"(l) may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"(m) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(n) may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to 5 U.S.C. 552(b)(3) when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests;

"(o) may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"(p) may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"(q) may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—(a) Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts and power purchase contracts, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"(b) As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title: *Provided, however,* That Department orders, rules and regulations affecting health, environment and nuclear safety shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded or set aside by the Secretary.

"(c) Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings, judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. CERTAIN PENDING LITIGATION.—(a) As soon as practicable after the date of the enactment of this title, the Corporation shall pay to the Tennessee Valley Authority (hereinafter referred to as 'TVA') the total principal amount of $1,300,000,000, with interest on the unpaid balance from the date of such enactment computed at an annual rate of 9 per centum.

"(b) Upon receipt by TVA of the payment made under subsection (a) and in consideration for such payment, the obligations of the Department and the Corporation to pay capacity charges to TVA for capacity in excess of 100 megawatts per year under Contract No. DE-AC05-760R03760, TV-30613A, as amended, and to pay capacity charges under Contract No. DE-AC05-760R03761, TV-30614A, as amended, and any other obligations of the Department to TVA that are the subject of the litigation currently pending in Tennessee Valley Authority versus The United States of America, Claims Court No. 513-87 C, United States Claims Court, shall be deemed fully satisfied and no longer in dispute by both TVA and the Department: *Provided, however,* That nothing in this title shall affect the authority of the Department or the Corporation to contract with TVA for the supply of electric power or to agree with TVA to modify the provisions of any existing contract between the Department and TVA to supply electric power to facilities of the Department or the Corporation, including, but not limited to, facilities at Oak Ridge, Tennessee.

"(c) The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.

"SEC. 1405. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—(a) The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage the Corporation: *Provided, however,* That upon enactment of this title, the Secretary shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"(b) The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the Secretary, except that compensation shall not exceed Executive Level I, as prescribed in 5 U.S.C. 5312;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"(c)(1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security;

"(B) health, safety and the environment; and

"(C) the need for indemnification with respect to hazardous nuclear activities.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not enumerated under paragraph (1), and, notwithstanding the provisions of 31 U.S.C. 9104(a)(4), including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate, to other officers or employees, powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. ADVISORY BOARD.—There is hereby established an Advisory Board appointed by the Secretary, which shall consist of five members, one of whom shall be designated as chairman. Members of the Advisory Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management

and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Advisory Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"(a) The specific responsibilities of the Advisory Board shall be to—

"(1) review the Corporation's policies and performance and advise the Secretary and the Administrator on these matters; and

"(2) advise the Secretary or the Administrator on any other such matters concerning the Corporation as either may refer to the Advisory Board.

"(b) Except for initial appointments, members of the Advisory Board shall serve five-year terms. Each member of the Advisory Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"(c) Upon expiration of the initial term, each Advisory Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the Secretary shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"(d) The members of the Advisory Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"(e) The Advisory Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly.

"(f) The Corporation shall compensate members of the Advisory Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. section 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Advisory Board. Any Advisory Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"(g)(1) The Advisory Board shall report at least annually to the Secretary and to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Secretary or the attention of the Administrator, or both. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within 90 days after the receipt of any report under this subsection the Secretary or the Administrator, as the case may be, shall respond in writing to such report and provide an analysis of such recommendation of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a statement of the reasons why that recommendation will not be implemented.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"(a) The Administrator shall appoint all officers, employees, and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of 5 U.S.C. 5301, with compensation levels not to exceed Executive Level II, as defined in 5 U.S.C. 5313. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. 2301(b) relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"(b) Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under 5 U.S.C. 5551, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by that employee for the Department.

"(c) This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"(d) Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"(e) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation or Congress in accordance with the provisions of this title.

"(f) The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(a) The Secretary, in consultation with the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following:

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge K-25 plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this subsection.

"(2) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology.

"(3) the Department's stocks of preproduced enriched uranium;

"(4) the Department's stocks of feed materials for uranium enrichment except for such quantities as are currently allocated to national defense activities of the Department;

"(5) all other facilities, equipment, materials (including depleted uranium and materials in process), processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporations functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

"(b) The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the atomic vapor laser isotope separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the

necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"(c) The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented), together with the right to use or have used any processes and technical information owned or controlled by the Department.

"(d) The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations, and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"(e) The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—(a) Upon commencement of operations of the Corporation:

"(1) all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation; and

"(2) with respect to all assets transferred to the Corporation under section 1505, the Corporation shall use the book value of such assets as shown in the Uranium Enrichment Annual Report for FY 1986, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer.

"(b) At such time that decontamination or decommissioning, or both, of property or equipment transferred in accordance with section 1505 of this title may be necessary, the Corporation and the Department shall share the burden of such costs based on the ratio of the separative work that has been produced under the ownership of each party and that is attributable to the property or equipment being decontaminated or decommissioned or both.

"(c) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other funds as provided by law, dividends from earnings of the Corporation when, in the opinion of the Administrator, such earnings are not otherwise needed to be applied in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves.

"(d) The Corporation shall repay within a 20-year period the amount of $364 million into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on 20-year government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection, hereinafter referred to as 'Initial Debt,' is hereby determined to constitute the sole recovery by the United States of previously unrecovered costs that—

"(1) have been incurred by the United States (including the Department) for uranium enrichment activities prior to Fiscal Year 1987 of the United States; and

"(2) are to be recovered by the Corporation from its customers in its charges for products, materials, and services.

"SEC. 1507. BORROWING.—(a)(1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"(b) Bonds issued by the Corporation under the section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of 15 U.S.C. 78c(c).

"(c) Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—To the extent permitted by prevailing business conditions, the Corporation shall establish prices and charges for its products, materials and services that in the opinion of the Corporation will over the long term: (1) recover the costs of performing and maintaining corporate functions, including but not limited to research and development, depreciation of assets, and repayment of the Initial Debt and other obligations of the Corporation; and (2) generate profits consistent with the maintenance of the Corporation as a continuing, commercial enterprise and other purposes of this title: *Provided*, That the Corporation in setting prices and charges for products, materials and services provided to the Department shall recover on a yearly basis its costs of providing such products, materials or services, without regard to prevailing business conditions and without generation of profit. Prices and other contractual terms for the provision of products, materials, or services by the Corporation shall be established without regard to the provisions of the Administrative Procedure Act, as amended.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of 31 U.S.C. 9105, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards approriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—(a) The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"(b) A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at

fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—(a) The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"(b) No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403 or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

"(c) The restrictions detailed in subsections b., c., d., e., f., g., and h. of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"(d) The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"(e) Whenever the Corporation submits to the Secretary, the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"(f) The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—(a) The term 'Commission' shall be deemed to include the Corporation wherever such term appears in sections 152, 153b.(1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"(b) The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"(c) The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153c. of title I subject, except as specified above, to all of the provisions of subsections 153 c., d., e., f., g., and h. of title I.

"(d) With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee of the Department' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"(e) The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under 35 U.S.C. 181 through 187.

"(f) The Corporation shall not be liable or responsible for any payments made or awards under subsection 157b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"(g) The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—Licensing of enrichment production facilities shall be subject to the provisions contained within this section:

"(a) Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of the enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81, 101 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities.

"(b) The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under provisions of title I.

"(c) The Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—(a) In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"(b) The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however,* That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the enactment of this title.

"(c) Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided,* That no payment shall be made to the extent that the

tax would apply to a period prior to the enactment of this title.

"(d) The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF THE ATOMIC ENERGY ACT.—(a) Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165, 221 a., 229, 230, 232 of title I shall be deemed to include the Corporation.

"(b) Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation—

"(1) the term 'Commission' shall be deemed to refer to the Secretary;

"(2) there shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) the Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—(a) The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"(b) As used in this subsection, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monoplies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. RELATIONSHIP TO FEDERAL BUDGET.—Notwithstanding any other provision of law, receipts, revenues, disbursements, budget authority and outlays of the Corporation for a fiscal year shall not be included in total budget authority, total budget outlays and total revenues or in the amounts of budget authority and outlays set forth for each major functional category for such fiscal year in either the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, or in the budget adopted by Congress pursuant to title III of the Congressional Budget and Impoundment Control Act of 1974, as amended. Neither shall such receipts, revenues, disbursements, budget authority or outlays be used in calculating the Federal deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided*, That nothing in this section shall affect the treatment for budgetary purposes of payments made by the Corporation to the United States Treasury or funds appropriated to the Corporation after the date of the enactment of this title.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the United States Enrichment Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexiblity to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—(a) No earlier than January 1, 1993, but no later than December 31, 1998, the Administrator shall submit to the President and to Congress a report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties and assets of the Corporation to private ownership. If the Administrator recommends such transfers, the report shall include a plan for implementation of the transfers.

"(b) Within one hundred and eighty days after receipt of the report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.".

SEC. 311. NUCLEAR HAZARD INDEMNIFICATION.—The Secretary of Energy shall indemnify under section 170(d) of the Atomic Energy Act of 1954, as amended, the contractors of the Corporation as if such contractors were contractors of the Secretary.

SEC. 312. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation."

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended—

(1) by adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "*Provided, however*, That as the term is used in Chapters 10 and 16 of this Act, other than with respect to import or export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) by striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) by striking the phrase "section 103 or 104" in section 41 a. (2) and inserting in lieu thereof "this title"; and

(4) in section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such additional sums as are necessary to discharge the obligations of the United States, including the United States Enrichment Corporation, arising under this title.

SEC. 314. SEVERABILITY.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 315. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title: *Provided, however*, That the Administrator or Acting Administrator may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954 as amended by this Act and previous Acts.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary:

Paul R. Michel, of Virginia, to be United States Circuit Judge for the Federal Circuit;

Malcolm J. Howard, of North Carolina, to be United States District Judge for the Eastern District of North Carolina;

Stephen M. Reasoner, of Arkansas, to be United States District Judge for the Eastern District of Arkansas;

Rudy Lozano, of Indiana, to be United States District Judge for the Northern District of Indiana;

John E. Fryatt, of Wisconsin, to be United States Attorney for the Eastern District of Wisconsin for the term of four years.

Patrick J. Fielder, of Wisconsin, to be United States Attorney for the Western District of Wisconsin for the term of four years;

Edgar W. Ennis, Jr., of Georgia, to be United States Attorney for the Middle District of Georgia for the term of four years; and

Charles A. Banks, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years;

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. GRAHAM:

S. 2081. A bill to suspend temporarily the duty on calcium carbaspirin; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 2082. A bill to amend the Internal Revenue Code of 1986 to exempt retired public safety officers from the early withdrawal tax on pension distributions; to the Committee on Finance.

By Mr. HEINZ:

S. 2083. A bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. KASTEN, Mr. INOUYE, Mr. STEVENS, Mr. DECONCINI, Mr. WALLOP, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. GRASSLEY, Mr. GARN, Mr. COCHRAN, Mr. MCCAIN, Mr. BOND, Mr. LUGAR, Mr. DANFORTH, and Mr. SIMPSON):

S. 2084. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2085. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WEICKER (for himself and Mr. DODD):

S. 2086. A bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L'Ambiance Plaza in Bridgeport, Connecticut; to the Committee on Labor and Human Resources.

By Mr. BRADLEY:

S. 2087. A bill to suspend until January 1, 1991, the duty of Iohexol; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2088. A bill to provide for flexibility in the use of Federal highway program grants authorized under title 23, United States Code, and other Federal infrastructure grants, to establish a National Infrastructure Corporation, to provide additional financing for a variety of public works improvements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MELCHER (for himself and Mr. WIRTH):

S. 2089. A bill to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MELCHER:

S. 2090. A bill to amend the Internal Revenue Code of 1986 to modify the rules regarding the refunding of qualified small issue bonds; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. BAUCUS, Mr. STAFFORD, and Mr. CHAFEE):

S. 2091. A bill to protect ground water resources of the United States; ordered held at the desk.

By Mr. DURENBERGER:

S. 2092. A bill to amend chapter 38 of the Internal Revenue Code of 1986 to establish new environmental taxes, and for other purposes; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. SHELBY, and Mr. HELMS):

S. 2093. A bill to urge negotiations with the Government of France for the recovery and return to the United States of the CSS Alabama; to the Committee on Foreign Relations.

By Mr. KERRY:

S. 2094. A bill to amend title XVI of the Social Security Act, to provide that the existing requirements for deeming a parent's income and resources to his or her children under age 18 shall not apply in the case of certain severely disabled children, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. PELL, Mr. WEICKER, and Mr. HARKIN):

S. 2095. A bill to strengthen the protections available to private employees against reprisal for disclosing information, to protect the public health and safety, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI (for himself, Mr. BOREN, Mr. NICKLES, Mr. JOHNSTON, Mr. WALLOP, Mr. BREAUX, Mr. SIMPSON, Mr. BINGAMAN, and Mr. MCCLURE):

S. 2096. A bill entitled the "U.S. Canada Free Trade Agreement Oil and Natural Gas Incentive Equalization Act of 1988"; to the Committee on Finance.

By Mr. JOHNSTON from the Committee on Energy and Natural Resources:

S. 2097. An original bill to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; placed on the calendar.

By Mr. BRADLEY (for himself, Mr. STAFFORD, Mr. INOUYE, Mr. COCHRAN, Mr. GORE, Mr. GARN, Mr. LEVIN, Mr. WARNER, Mr. LAUTENBERG, Mr. MURKOWSKI, Mr. PELL, Mr. DOMENICI, Mr. DIXON, Mr. DOLE, Mr. SANFORD, Mr. HATCH, Mr. SARBANES, Mr. BURDICK, Mr. TRIBLE, Mr. BUMPERS, Mr. LUGAR, Mr. GRAHAM, Mr. BOSCHWITZ, Mr. STENNIS, Mr. SIMPSON, Mr. RIEGLE, Mr. THURMOND, Mr. BOREN, Mr. BENTSEN, Mr. HEFLIN, Mr. HOLLINGS, Mr. QUAYLE, Mr. DANFORTH, and Ms. MIKULSKI):

S.J. Res. 263. A joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; to the Committee on the Judiciary.

By Mr. RIEGLE:

S.J. Res. 264. A bill to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week"; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. MELCHER, Mr. DOLE, Mr. BOREN, Mr. HELMS, Mr. CONRAD, Mr. COCHRAN, Mr. FOWLER, Mr. BOSCHWITZ, Mr. DASCHLE, Mr. BOND, Mr. KARNES, Mr. MCCONNELL, Mr. PRYOR, Mr. HEFLIN, and Mr. BREAUX):

S.J. Res. 265. A joint resolution to designate March 20, 1988, as "National Agriculture Day"; placed on the calendar by unanimous consent.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH:

S. Res. 382. A resolution to remove the power to arrest Senators from the Sergeant at Arms; to the Committee on Rules and Administration.

By Mr. LAUTENBERG (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. WEICKER, Mr. BIDEN, Mr. SPECTER, Mr. BYRD, Ms. MIKULSKI, Mr. BRADLEY, Mr. BURDICK, Mr. FOWLER, Mr. HARKIN, and Mr. ADAMS):

S. Res. 383. A resolution to express the sense of the Senate regarding future funding of Amtrak; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. Con. Res. 100. A concurrent resolution expressing the sense of the Congress that the executive branch, in exercising authorities to restrict exports, use a standard definition of those goods which may be exported as humanitarian donations; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:

S. 2082. A bill to amend the Internal Revenue Code of 1986 to exempt retired public safety officers from the early withdrawal tax on pension distributions; referred to the Committee on Finance.

LEGISLATION TO EXEMPT PUBLIC SAFETY EMPLOYEES FROM THE PENALTY TAX ON EARLY PENSION DISTRIBUTIONS

Mr. MATSUNAGA. Mr. President, I am today introducing legislation which will exempt public safety employees from the penalty tax on early distributions from qualified retirement plans.

Mr. President, the Tax Reform Act of 1986 imposed a 10-percent penalty tax on early distributions from any qualified retirement plan. For purposes of this penalty tax, an early distribution is defined as a distribution made to an employee before the age of 55. Unfortunately, little or no consideration was given to the fact that many State and municipal retirement systems allow or require public safety employees such as firefighters, rescue workers, law enforcement officers, and correctional personnel to retire before the age of 55. In addition, certain Federal public safety employees are permitted or requested to retire before age 55.

Mr. President, public safety employees who are allowed or required to retire before age 55 have no effective means of avoiding this penalty tax. In this instance, this penalty tax runs counter to the policy of encouraging or mandating early retirement in these special occupations.

Mr. President, the legislation I am proposing today will exempt public safety employees from this 10-percent penalty tax on early pension distributions. I believe that it is inequitable to apply the penalty tax on early distributions to public safety employees who are permitted or required to retire before the age of 55. I urge my colleagues to join me in cosponsoring this legislation on the simple ground that it seeks to restore plain justice for a well-deserving, highly essential group of Americans.

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. 2082

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

SECTION 1. EXEMPTION FROM EARLY WITHDRAWAL TAX ON DISTRIBUTIONS TO RETIRED PUBLIC SAFETY OFFICERS.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(6) DISTRIBUTIONS TO PUBLIC SAFETY OFFICERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution from a plan maintained by the Federal Government, a State or political subdivision thereof, or any agency or instrumentality of either, which is received by a qualified public safety officer on or after retirement under such plan.

"(B) QUALIFIED PUBLIC SAFETY OFFICER.—For purposes of this paragraph, the term 'qualified public safety officer' means a participant in a plan described in subparagraph (A) with respect to whom the period of service taken into account in determining the amount of benefit under the plan includes at least 20 years of service of the participant as a full-time employee providing police protection, firefighting services, emergency medical services, or correctional facility services."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1023(a) of the Tax Reform Act of 1986.

By Mr. HEINZ:

S. 2083. A bill to ensure that certain railroad retirement benefits paid out of the dual benefits payments account are not reduced, and for other purposes; to the Committee on Labor and Human Resources.

RAILROAD RESTORATION ACT

● Mr. HEINZ. Mr. President, twice in the last 6 years when railroad retirement's vested dual benefits have been threatened by budget cuts, Congress has taken legislative action to ensure their protection. I call on my colleagues once again to take action to correct a regrettable mistake in the continuing resolution for appropriations of 1987. If this mistake is not adjusted, monthly retirement checks for some 275,000 retirees will be cut by as much as $63 per year.

Let me take a moment to explain what happened in the continuing resolution. The continuing resolution made a 4.26-percent across-the-board reduction in all discretionary spending in the Labor/HHS Appropriations. The 4.26-percent reduction, when applied to vested dual benefits, will not eliminate a COLA because there is no COLA for these benefits. Rather, it is an actual reduction in the basic benefit. Other retirement benefits are entitlements and are therefore automatically appropriated and, thus, are not affected by annual appropriations of discretionary spending accounts. Dual vested benefits, however, are funded for general revenues rather than through the railroad retirement trust funds and, therefore, run the risk of being reduced.

Vested dual benefits are treated differently than other railroad retirement benefits. These are benefits that had been earned by workers prior to 1974 and were protected in a special account when railroad retirement was restructured in 1974. Previously, railroad workers with extensive nonrail employment qualified for benefits under Social Security and railroad retirement that, in combination, were higher than the benefits of those who worked exclusively in rail employment.

Congress eliminated these dual benefits prospectively in 1974, but preserved in a special account dual benefits to the workers who had already vested. Congress chose to fund this account out of general revenues because of the inequity of charging rail workers for benefits that they could no longer receive. These benefits were fixed at that time, with no indexing for inflation.

Railroad retirement with vested dual benefits are continuously in danger of losing a portion of their benefits, due either to lack of attention or budget cutting. Twice the Congress has acted to prevent a reduction in these benefits.

In 1982, I sponsored an amendment included in the supplemental appropriations bill which restored full funding of dual benefits for the fiscal years 1983, 1984, and 1985. Once again in 1986, I introduced legislation which was added as an amendment to the Omnibus Reconciliation Act of 1986, to exempt dual vested benefits from further cuts under the automatic sequestration process.

Now, we face the necessity of acting again to rectify a cut in these benefits. What we have here is a case of congressional malpractice. We set out to slice the nonretirement accounts but slipped, and carved a chunk out of thousands of retirees' retirement checks as well. We need to suture this wound quickly. We in Congress have consistently opposed cutting retirement benefits for Social Security recipients, railroad retirees, and Federal civilian and military retirees. Not to undo this unintended and patently unfair cut in dual retirement benefits for railroad retirees would establish a dangerous precedent—one that would justifiably give all retirees cause to fear that Congress would cut their benefits.

With this in mind, Mr. President, I urge my colleagues to join me in correcting this unfortunate situation. Let us hope that in our efforts to remedy this oversight we may eliminate the fear railroad retirees have of losing their hard-earned benefits.

In so doing, we may restore their faith in the congressional process. I urge you to support the legislation I am introducing today. It is the responsibility of Congress to fix this oversight as quickly as possible, and to ensure railroad retirees that their benefits will not be cut.●

By Mr. HATCH (for himself, Mr. KASTEN, Mr. INOUYE, Mr. STEVENS, Mr. DECONCINI, Mr. WALLOP, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. GRASSLEY, Mr. GARN, Mr. COCHRAN, Mr. MCCAIN, Mr. BOND, Mr. LUGAR, Mr. DANFORTH, and Mr. SIMPSON):

S. 2084. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Finance.

CHILD CARE SERVICES IMPROVEMENT ACT

Mr. HATCH. Mr. President, I am very pleased to be reintroducing the "Child Care Services Improvement Act" along with 15 of my Senate colleagues. Our distinguished colleague in the House of Representatives, Congresswoman NANCY JOHNSON, of Connecticut, is introducing an identical bill in that body.

Several improvements have been made to the bill I introduced in September, and we are ready to move forward with this legislation. We are eager to discuss the details of our proposal during the upcoming hearings planned by Senator DODD's Subcommittee on Children, Family, Drugs and Alcoholism.

Several prominent national organizations have reviewed our proposal as well as the complex problem of child care and agree that this approach is realistic, workable, and most important, effective.

I am joined in sponsoring this bipartisan legislation by 15 Senators who share my concern about the lack of quality child care and the ramifications such shortages have on families, on our workforce, and on our future generations. I invite other members of this body to study the provisions of our bill and to lend us their support. I believe they will find our approach a meritorious one and one which can be

signed into law during this historic 100th Congress.

Mr. President, I ask unanimous consent that the text of the "Child Care Services Improvement Act of 1988" be printed in the RECORD.

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

S. 2084

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Services Improvement Act of 1988".

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) expand the availability of child care for working families;

(2) increase the access of low income and minority families to child care;

(3) ensure the health and safety of children entrusted to child care providers;

(4) provide incentives for private sector participation in child care services; and

(5) provide incentives to minimize the need for child care.

SEC. 3. FINDINGS.

Congress finds that—

(1) 63 percent of all women with children under the age of 14 are in the labor force and 52 percent of such women have children under the age of 6;

(2) of all of the women in the labor force, two-thirds are employed due to economic need because they are the head of a household or because they have a spouse that earns less than $20,000 per year;

(3) an estimated 70 to 90 percent of family day care providers are unregulated, unregistered, and difficult to find for potential consumers;

(4) since at least two-thirds of all children in child care are cared for in family or home-based environments, any sound social policy must recognize the dependence of families on this small business sector, assure that adequate time and resources exist to meet regulatory standards without interruption of services, and enhance parental access to the important service it provides;

(5) compliance with accreditation or licensing standards by providers may require a substantial capital investment that can discourage individuals from entering into the child care profession and increase the cost of child care for families;

(6) the shortage of day care slots jeopardizes the safety of thousands of children left unsupervised;

(7) there is a shortage of trained child care workers and of training programs for those interested in becoming care providers;

(8) low compensation for child-care personnel results in high turnover in day-care centers and discourages home-based providers from a long-term commitment to the profession, which creates insecure environments detrimental to the well-being of the children involved;

(9) difficulties in obtaining affordable liability insurance and in complying with cumbersome tax and filing requirements discourage potential child care providers from entering the profession; and

(10) the accumulated effects of the unavailability, unaffordability, and uncertain quality of child care in the United States will have a negative impact on the growth and development of children.

TITLE I—CHILD CARE BLOCK GRANT

SEC. 101. CHILD CARE BLOCK GRANT.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new part:

"PART D—CHILD CARE SERVICES BLOCK GRANT

"SEC. 1931. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of allotments to States to carry out the activities described in section 1934, there are authorized to be appropriated $250,000,000 for each of the fiscal years 1989, 1990, and 1991.

"SEC. 1932. ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year from amounts appropriated for allotments for such fiscal year. The amount of such allotment shall be equal to the product of—

"(A) an amount equal to the amounts appropriated for allotments to States for such fiscal year; and

"(B) the percentage described in paragraph (2).

"(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

"(A) an amount equal to the number of children under 12 years of age in the State involved living in a household whose income is not greater than 200 percent of the poverty level, adjusted for family size, as indicated by the most recent data collected by the Bureau of the Census; divided by

"(B) an amount equal to the number of children under 12 years of age in the United States living in a household whose income is not greater than 200 percent of the poverty level, adjusted for family size, as indicated by the sum of the respective amount determined for each State under subparagraph (A).

"(b) ADDITIONAL ALLOTMENT.—

"(1) SOURCE OF ALLOTMENT.—A State shall receive an additional allotment if funds appropriated and available for allotment for a fiscal year are not allotted to States under subsection (a) because—

"(A) at least one State has not submitted an application or description of activities in accordance with section 1935 for such fiscal year;

"(B) at least one State has notified the Secretary that the State does not intend to use the full amount of the allotment; or

"(C) at least one States' allotment is offset or repaid under section 1917(b)(3) (as such section applies to this part pursuant to section 1938).

"(2) METHOD OF ALLOTMENT.—The excess amounts available for allotment under paragraph (1) shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year.

"SEC. 1933. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make payments from amounts appropriated for each fiscal year, as provided by section 6503(a) of title 31, United States Code, to a State from the State's allotment under section 1932, in an amount equal to the Federal share of the total sums to be expended by the State for project grants pursuant to section 1934(a) for the fiscal year for which payments are made. For purposes of calculating payments under this section, the total sums to be expended by the State for project grants pursuant to section 1934(a) shall include the value of any in-kind expenditures to be made by the State which are targeted for project grants, but shall not include any funds from Federal sources (other than those to be provided from the State's allotment under section 1932).

"(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be 80 percent.

"(c) TIMING OF PAYMENTS.—The Secretary may make payments to a State at such times and amounts (with necessary adjustments for overpayments or underpayments) as he and the Governor of the State consider appropriate.

"(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 1934. STATE USE OF ALLOTMENTS.

"(a) PROJECT GRANTS.—Subject to subsection (d), amounts paid to a State under section 1933 shall be used by the State to make grants to eligible entities for projects described in subsection (c) that meet at least one of the purposes of the Child Care Services Improvement Act of 1988.

"(b) ELIGIBLE ENTITIES.—For purposes of this part, the term 'eligible entity' means—

"(1) a unit of a local government, including a school district;

"(2) an organization which qualifies as a nonprofit organization under section 501(c) or 501(d) of the Internal Revenue Code of 1986;

"(3) a professional or employee association;

"(4) a consortium of small businesses;

"(5) an institution of higher education;

"(6) a hospital or health care facility;

"(7) a family care provider;

"(8) a parent to use of employment-related or education-related expenses for child care by a registered, licensed, or accredited provider; or

"(9) an entity that the State considers able and appropriate to carry out a project under this part.

"(c) PROJECTS.—

"(1) PURPOSE.—A State may make grants to an eligible entity—

"(A) for child care certificate programs or scholarships that enable low income families to obtain adequate child care;

"(B) for the establishment and operation of community or neighborhood child care centers, including the renovation of public buildings for such purposes;

"(C) for the establishment and operation of after school child care programs;

"(D) to provide grants or loans to fund the start up costs of employer sponsored child care programs;

"(E) for the establishment and operation of training programs for child care providers;

"(F) for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled;

"(G) for the expansion of existing part-day child care programs into full-day child care programs;

"(H) for the establishment and operation of child care programs for homeless children;

"(I) for linking child care programs with programs designed to assist the elderly; or

"(J) for any project consistent with the purposes of the Child Care Services Improvement Act of 1988.

"(2) LIMITATIONS.—A State may not use amounts paid to the State under section 1933 to—

"(A) provide inpatient health care services or other unrelated services, except temporary sick child care as authorized under paragraph (1)(F);

"(B) make cash payments to intended recipients of services other than pursuant to the child care certificate system authorized by paragraph (1)(A);

"(C) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment (except as provided in paragraph (1)(B)); and

"(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(3) WAIVER OF LIMITATIONS.—The Secretary may waive the limitations contained in paragraph (2) on the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"(d) TECHNICAL ASSISTANCE.—The Secretary, on request by a State, shall provide technical assistance, including assistance in developing State licensing and accreditation standards, information on voluntary accreditation, and model programs for the training of child care providers, to the State in planning and operating activities to be carried out under this part.

"(e) STATE ADMINISTRATION.—

"(1) LIMITATION ON EXPENDITURES.—No more than 10 percent of the total amount paid to a State under section 1933 for a fiscal year shall be used for administering the funds made available under such section. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"(2) STATE RESPONSIBILITIES.—From the funds reserved by the State under paragraph (1) for the administration of the amounts awarded to the State under section 1933, the State shall—

"(A) provide technical assistance to eligible entities participating in projects under this section;

"(B) conduct investigations of child abuse in projects funded under this section;

"(C) coordinate projects funded under the Child Care Services Improvement Act of 1988 with referral programs conducted pursuant to the State Dependent Care Development Grants Act;

"(D) establish regular communication with registered, licensed, and accredited child care providers on regulatory standards, provider training opportunities, provider support groups, and nutritional assistance programs; and

"(E) establish a consumer education program designed to inform parents and the general public about regulatory standards, complaint procedures, and the importance of parental involvement in assuring quality care.

"(f) CERTIFICATION.—To receive funds under this part, a State shall—

"(1) certify that the State will coordinate the provision of child care services with funds provided under the Child Care Services Improvement Act of 1988 with other child care services available in the State;

"(2) certify that the State agrees that Federal funds made available under section 1933 for any fiscal year will be used to supplement and increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs and activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds;

"(3) certify that the Governor of the State will establish an advisory council that meets the requirements of section 1936;

"(4) certify that the State will adopt standards of accreditation or licensing for family-based and group child care providers, and methods of inspection and certification based on such standards;

"(5) certify that, if it makes grants for child care certificate programs, the State will require that, in order to redeem a child care certificate provided to a parent, any family or home-based child care provider which has never been accredited or licensed will register with the appropriate State or local agency for a period of not more than two years, providing its name, telephone number, and address, after which it must become fully licensed or accredited under the standards established by the State; and

"(6) certify that the State will use the information contained in the report submitted to the Secretary pursuant to subsection (h) to regularly evaluate the impact of its distribution of funds received pursuant to section 1933 on the quality and availability of child care in the State.

"(g) STATE REPORTS.—

"(1) IN GENERAL.—Before March 31 of each fiscal year, the Governor of a State receiving funds pursuant to section 1933 shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the States' use of the funds received pursuant to section 1933 for the preceding fiscal year.

"(2) REQUIREMENTS OF REPORT.—The report submitted under paragraph (1) shall—

"(A) include information on the programs, activities, and services supported or provided with the funds received by the State under section 1933, including the number of children served, the number of low-income and minority families served, and the Federal, State, local, and private costs incurred;

"(B) include an estimate of the number of children cared for by unlicensed child care providers in the State during the preceding fiscal year and an estimate of the number of such children who are cared for by providers who are related to them;

"(C) include an examination of the impact of provider pay on the quality of child care and on provider and staff turnover in the State during the preceding fiscal year; and

"(D) be made public in the State in a manner that will facilitate comment by persons desiring to do so.

"(3) DUTIES OF SECRETARY.—Not later than September 30th of each fiscal year, the Secretary shall prepare and submit to Congress a summary of the information contained in the State reports submitted pursuant to paragraph (1). Such summary shall include an analysis of those programs, activities, and services supported or provided with the funds received by the States under section 1933 which the Secretary considers particularly innovative and effective, and an analysis of efforts made to regulate unlicensed child care providers.

"SEC. 1935. APPLICATIONS FOR GRANTS BY ENTITIES.

"(a) APPLICATION.—In order to receive a grant from a State under section 1934, an eligible entity shall submit an application to the State that—

"(1) describes the project that the entity is seeking the grant for; and

"(2) contains assurances that project will meet the requirements of subsection (b).

"(b) REQUIREMENTS.—An application submitted under subsection (a) shall—

"(1) provide assurances that the submitting entity will use the funds provided under the grant in accordance with the purpose and requirements of this part;

"(2) provide assurances that each family participating in a child care program assisted under this part will be assessed fees in an amount that is proportional to the annual income of the family;

"(3) specify provisions for parental involvement in the project; and

"(4) provide assurances that the project will meet the quality standards established by the State for accreditation or licensing.

"(c) FUNDING REQUIREMENT.—An eligible entity receiving a grant under this part shall be required to fund at least 10 percent, but no more than 50 percent, of the project cost with non-Federal funds. The non-Federal funding may be in cash or in-kind based on fair market value.

"(d) PRIORITY.—In awarding grants under this part, a State shall give priority to programs and projects which are designed to operate in succeeding years without receiving such grants.

"SEC. 1936. CHILD CARE ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Governor of each State shall establish an advisory council on child care.

"(b) MEMBERSHIP.—(1) One-third of the number of positions on the State's advisory council on child care shall be reserved for parents and child care providers.

"(2) The remaining number of positions shall be filled by representatives of—

"(1) community-based organizations;

"(2) local governments;

"(3) social services agencies;

"(4) religious organizations;

"(5) educational institutions;

"(6) business organizations; and

"(7) labor or employee associations.

"(c) DUTIES OF COUNCIL.—The advisory council created under subsection (a) shall—

"(1) advise the Governor on the use of funds available to the State under this part;

"(2) advise the Governor on the child care needs of low-income and minority families;

"(3) develop a schedule of fees for child care services under which fees would be assessed in proportion to the annual income of the family served;

"(4) develop separate standards for accreditation or licensing of family-based child care providers and group child care providers participating in programs assisted under this part that shall include minimum competencies for child care workers and supervisors; and

"(5) recommend methods of inspection and certification to administer the accreditation or licensing standards established under paragraph (2).

"SEC. 1937. CHILD CARE RESEARCH AND DEMONSTRATION PROGRAMS.

"(a) RESEARCH.—The Secretary shall conduct and support by grant or contract research on the effectiveness of early childhood education and quality child care on child growth and development.

"(b) DEMONSTRATION PROGRAMS.—The Secretary shall conduct and support by grant or contract demonstration programs designed to test the effectiveness of innovative child care arrangements and programs.

"SEC. 1938. APPLICABLE PROVISIONS OF PART B.

"Except where inconsistent with this part, sections 1914(b), 1917(b) (1) through (5), 1918, 1919, and 1920 shall apply to this part in the same manner as such sections apply to part B of this title.".

SEC. 102. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective 6 months after the date of enactment of this Act.

TITLE II—CHILD CARE LIABILITY

PART A—CHILD CARE LIABILITY REFORM

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) the term "family based child care" means child care located in or on the site of the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person who is self-employed as a child care provider, and the children cared for in such facility shall include children who are not the children of such provider;

(2) the term "group child care center" means a child care provider which is a private profit or nonprofit corporation, not located in the principal residence of the provider, and includes on-site child care;

(3) the term "in-home child care" means child care which is provided in a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person and to which an outside individual child care provider comes, either for specified hours of the day or on a live-in basis, to provide care for the children of such residence;

(4) the term "on-site child care center" means a child care facility—

(A) operated by an employer for the care of children, at least 30 percent of whom are dependents of employees of such employer; and

(B) located on or near the business premises of such employer;

(5) the term "person" means an individual, corporation, company, association, firm, partnership, society, or any other entity;

(6) the term "Secretary" means the Secretary of Commerce; and

(7) the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 202. APPLICABILITY.

(a) IN GENERAL.—This part shall apply to any civil action in any State or Federal court against any child care provider who is in compliance with the licensing or accreditation requirements of the State in which he is located.

(b) EXCEPTION FOR INTENTIONAL TORTS.—This part shall not apply to any civil action for an intentional tort.

(c) PREEMPTION.—This part shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this part. Any issue arising under this part that is not governed by this part shall be governed by applicable State or Federal law.

(d) DEFENSES NOT AFFECTED.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code, known as the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

SEC. 203. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), joint and several liability may not be applied to any action subject to this part. A person found liable for damages in any such action may be found liable, if at all, only for those damages directly attributable to the person's pro-rata share of fault or responsibility for the injury, and may not be found liable for damages attributable to the pro-rata share of fault or responsibility of any other person (without regard to whether such person is a party to the action) for the injury, including any person bringing the action.

(b) CONCERTED ACTION.—

(1) EXCEPTION FROM APPLICATION.—Subsection (a) shall not apply as between persons acting in concert where the concerted action proximately caused the injury for which one or more persons are found liable for damages.

(2) CONCERTED ACTION DEFINED.—As used in this section, "concerted action" or "acting in concert" means the conscious acting together in a common scheme or plan of two or more persons resulting in a tortious act.

SEC. 204. COLLATERAL SOURCE OF COMPENSATION.

(a) REDUCTION OF AWARD.—Any award of damages to a person in a civil action to which this part applies shall be reduced by the court by an amount of any past or future payment or benefit covered by this section which the person has received or for which the person is eligible on account of the same personal injury or death for which such damages are awarded.

(b) PAYMENT OR BENEFITS DEFINED.—As used in this section, "payment or benefit covered by this section" means—

(1) any payment or benefit by or paid for in whole or in part by any agency or instrumentality of the United States, a State, or a local government, or

(2) any payment or benefit by a health insurance program funded in whole or in part by an employer;

but does not include any such payment or benefit that is (or by law is required to be) the subject of a reasonably founded claim of subrogation, reimbursement, or lien.

SEC. 205. STANDARDS AND PROCEDURES FOR AWARD FOR PUNITIVE DAMAGES.

(a) STANDARDS.—Punitive or exemplary damages may, if otherwise permitted by applicable law, be awarded in any civil action to which this part applies only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting intentional or conscious disregard for the health or safety of those persons who might be harmed.

(b) PROCEDURES.—In any civil action to which this part applies, at the request of the defendant, the trier of fact shall consider in a separate proceeding whether punitive or exemplary damages are to be awarded and, if so, the amount of such award. If a separate proceeding is requested, no evidence which is relevant only to the claim of punitive or exemplary damages, as determined by applicable law, shall be admissible in any proceeding to determine whether compensatory damages are to be awarded.

SEC. 206. LIABILITY OF NONPROFIT ORGANIZATIONS AND PUBLIC SCHOOLS.

(a) LIABILITY OF SEPARATE CORPORATION.—Any eligible nonprofit organization or local educational agency which is the parent or majority owner of any entity incorporated or otherwise organized under applicable State law as a separate business organization providing child care shall not be liable for damages in any civil action to which this part applies brought against that separate corporation or organization.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "eligible nonprofit organization" means an organization described in section 501(c) or 501(d) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.

(2) The term "local educational agency" has the meaning given to it under section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381(f)).

(c) SENSE OF CONGRESS REGARDING EXPEDITED INCORPORATION.—The Congress recognizes that the entities described in subsection (a) are making a significant contribution to society and encourages the States to establish expedited and simplified procedures under which nonprofit organizations and local education agencies may inexpensively and quickly incorporate or otherwise organize such entities as a separate child care provider.

PART B—CHILD CARE LIABILITY RISK RETENTION GROUP

SEC. 210. PURPOSE.

It is the purpose of this part—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

SEC. 211. FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this part.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—For purposes of this part, the "child care liability risk retention group" means any corporation (or other limited liability association)—

(1) whose members are child care providers licensed or accredited pursuant to State or local law or standards; and

(2) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

SEC. 212. STATE APPLICATIONS.

(a) APPLICATIONS.—To qualify for assistance under this part, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including a State plan which meets the requirements of subsection (b) of this section.

(b) STATE PLANS.—

(1) LEAD AGENCY.—The plan shall identify the lead agency which has been designated and which is to be responsible for the ad-

ministration of funds provided under this part.

(2) PARTICIPANTS IN RISK RETENTION GROUP.—The plan shall provide that all participants in the child care liability risk retention group are child care providers who are licensed or accredited pursuant to State or local law or standards. In addition, the plan shall provide for maximum membership of family-based child care providers in the group.

(3) USE OF FUNDS.—The plan shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(4) CONTINUATION OF RISK RETENTION GROUP.—The plan shall set forth provisions which specify how the child care liability risk retention group will continue to be financed after fiscal year 1991, including financing through contributions by the State or by members of such group.

SEC. 213. FEDERAL ENFORCEMENT.

(a) REVIEW OF PLANS.—The Secretary of Health and Human Services shall review and approve State plans submitted in accordance with this part and shall monitor State compliance with the provisions of this part.

(b) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State; or

(2) that there is a failure to comply substantially with any applicable provision of this part,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this part until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

SEC. 214. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this part, there are authorized to be appropriated $100,000,000 for fiscal year 1989.

(b) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1989, 1990, and 1991 without limitation.

SEC. 215. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this part for each fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this part.

SEC. 216. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make an allotment to each State not referred to in section 215 for each fiscal year from the sums appropriated to carry out the provisions of this part for such fiscal year.

(b) ALLOTMENT FORMULA.—

(1) IN GENERAL.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this part for each fiscal year minus the amount reserved pursuant to section 215 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the number of children under 12 years of age living in the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

SEC. 217. PAYMENTS.

(a) ENTITLEMENT.—Each State having a plan approved by the Secretary under this part shall be entitled to payments under this section for each fiscal year in an amount not to exceed its allotment under section 216, to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, subject to the requirement of section 214, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(c) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under section 216 for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

TITLE III—REVOLVING LOAN FUND

SEC. 301. PURPOSE; DEFINITIONS.

(a) PURPOSE.—It is the purpose of this title to—

(1) increase the availability of family-based child care by enabling family-based child care providers to meet accreditation or licensing standards; and

(2) provide States with a sufficient capital base to make loans that may be increased or maintained through mechanisms developed by the State.

(b) DEFINITIONS.—For purposes of this title, the following definitions shall apply:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 302. STATE APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—

(1) FORM OF APPLICATION.—To qualify for assistance under this title, a State shall submit an application to the Secretary, at such time, in such manner, and providing such information as the Secretary may require, including a plan which meets the requirements of paragraph (2).

(2) QUALIFYING FOR LOAN.—The State shall submit a plan which sets forth procedures and requirements whereby any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) in order to become a licensed or accredited family-based child care facility, pursuant to State or local law or standards, may obtain a loan from the State revolving loan fund (hereinafter called the "fund"). Such fund shall be administered by the State and shall provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, which is not in excess of $1,500.

(b) STATE PLAN.—

(1) ESTABLISHMENT OF FUND.—The State shall provide in its plan, that such State has established a revolving loan fund, and has provided procedures whereby—

(A) moneys are transferred to such fund to provide capital for making loans;

(B) interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such fund are deposited into such fund;

(C) all loans, expenses, and payments pursuant to the operation of this title are paid from such fund;

(D) loans made from such fund are made to qualified applicants for capital improvements to be made so that such applicant may obtain a State or local accreditation or a license for a family-based child care facility; and

(E) the plan shall set forth provisions which specify how any such revolving loan fund will continue to be financed after fiscal year 1990, such as through contributions by the State or by some other entity.

(2) QUALIFICATIONS.—Such plan shall also set forth procedures and guidelines to carry out the purposes of this title, including provisions which will assure that only applicants who obtain a license or accreditation for a child care facility in accordance with the provisions of State or local law or standards, benefit from loans made available pursuant to the provisions of this title.

SEC. 303. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this title, there are authorized to be appropriated $25,000,000 for fiscal year 1989.

(b) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1989, 1990, and 1991 without limitation.

SEC. 304. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this title in each fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be alloted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this title.

SEC. 305. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make an allotment to each State not referred to in section 304 for each fiscal year from the sums appropriated to carry out the provisions of this title for such fiscal year.

(b) ALLOTMENT FORMULA.—

(1) IN GENERAL.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this title for each fiscal year minus the amounts reserved pursuant to section 304 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the number of children under 12 years of age living in the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 401. SHORT TITLE.

This title may be cited as the "Child Care Facility Tax Incentive Act of 1988".

SEC. 402. CREDIT FOR EMPLOYERS PROVIDING QUALIFIED CHILD CARE FACILITIES.

(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. QUALIFIED EMPLOYER-PROVIDED CHILD CARE FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the qualified child care facility credit determined under this section for any taxable year is an amount equal to 25 percent of the qualified child care expenses for such taxable year.

"(b) LIMITATION.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed $100,000.

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

"(1) QUALIFIED CHILD CARE EXPENSES.—The term 'qualified child care expenses' means any amount paid or incurred by an employer during the taxable year to acquire, construct, or otherwise establish a qualified child care facility.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) operated by an employer for the care of enrollees, at least 30 percent of whom are dependents of employees of such employer,

"(ii) located on or near the business premises of such employer, and

"(iii) which is accredited or licensed to operate as a child care facility under applicable State and local laws and regulations.

"(B) MULTIPLE EMPLOYERS.—In the case of a facility operated by more than 1 employer, such facility shall be treated as a qualified child care facility of each employer with respect to which the requirements of subparagraph (A) are met separately.

"(d) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of employers to which subsection (c)(2)(B) applies, the amount of credit allocable to each such employer shall be its proportionate share of the qualified child care expenses giving rise to the credit.

"(2) 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.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(4) RECEIPT OF CHILD CARE PROJECT GRANT.—An employer is not eligible for a credit under this section for a taxable year if he received a child care project grant pursuant to section 1934 of the Public Health Service Act during such taxable year.".

(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 qualified child care facility 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. Qualified employer-provided child care facility credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 403. CERTAIN EARNINGS FROM THE PROVISION OF CHILD CARE SERVICES ENTITLED TO LOWER RATE OF SELF-EMPLOYMENT TAX AND EXCLUSION FROM ESTIMATED TAXES AND WITHHOLDING.

(a) SELF-EMPLOYMENT TAXES.—Section 1402 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(k) SPECIAL RULES AND RATE OF TAX FOR INCOME FROM FAMILY-BASED AND IN-HOME CHILD CARE SERVICES.—For purposes of this chapter—

"(1) IN GENERAL.—For purposes of this chapter, any earned income (as defined in section 911(d)(2)) derived from the provision of qualified family-based or in-home child care services shall be treated as gross income derived by an individual from a trade or business carried on by such individual, and the rate of tax imposed under subsections (a) and (b) of section 1401 on the self-employment income of such individual attributable to providing those services shall be equal to one-half of the rate determined without regard to this paragraph.

"(2) QUALIFIED FAMILY-BASED OR IN-HOME CHILD CARE SERVICES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified family-based or in-home child care services' means child care services provided to a child at a family-based or in-home child care facility.

"(B) FAMILY-BASED CHILD CARE FACILITY.—The term 'family-based child care facility' means a facility—

"(i) which is located in (or on the site of) the principal residence of the taxpayer (within the meaning of section 1034),

"(ii) which is owned and operated by a self-employed individual (within the meaning of section 401(c)(1)), and

"(iii) which is accredited or licensed as a child care facility under applicable State and local laws and regulations.

"(C) IN-HOME CHILD CARE FACILITY.—The term 'in-home child care facility' means the principal residence (within the meaning of section 1034) of the child to whom child care services are being provided.".

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended by striking "or" at the end of subsection (r), by striking the period at the end of subsection (s) and inserting ", or", and by adding after subsection (s) the following new subsection:

"(t) Any payment to an individual for qualified family-based or in-home child care services (within the meaning of section 1402(k)(2) of the Internal Revenue Code of 1986).".

(c) WAGE WITHHOLDING NOT REQUIRED.—Section 3401(a) of the Internal Revenue Code of 1986 (defining wages) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof ", or", and by adding after paragraph (20) the following new paragraph:

"(21) for qualified family-based or in-home child care services (within the meaning of section 1402(k)(2)).".

(d) EXEMPTION FROM ESTIMATED TAX.—Section 6654(e) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(4) UNDERPAYMENT ATTRIBUTABLE TO INCOME FROM DAY CARE SERVICES.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment attributable to earned income (within the meaning of section 911(d)(2)) from the providing of qualified family-based or in-home child care services (within the meaning of section 1401(k)(2)).".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1988.

(2) The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1988.

SEC. 404. CAFETERIA PLANS REQUIRED TO PROVIDE CHILD CARE OPTION.

(a) IN GENERAL.—Paragraph (1) of section 125(c) of the Internal Revenue Code of 1986 (defining cafeteria plan) is amended by adding at the end thereof the following new sentence:

"A plan shall not be treated as a cafeteria plan unless it provides an option to choose benefits under a dependent care assistance program (within the meaning of section 129(d)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1989.

SEC. 405. ADDITIONAL DOUBLE PERSONAL EXEMPTION FOR PARENT REMAINING HOME WITH NEWBORN OR NEWLY ADOPTED CHILD.

(a) IN GENERAL.—Section 151(c) of the Internal Revenue Code of 1986 (relating to additional exemption for dependents) is amended by adding at the end thereof the following new paragraph:

"(6) ADDITIONAL DOUBLE EXEMPTION FOR NEWBORN AND NEWLY ADOPTED CHILDREN WHERE PARENT DOES NOT WORK.—

"(A) IN GENERAL.—An exemption of twice exemption amount for each dependent (as defined in section 152) who is a child (as defined in paragraph (3)) of the taxpayer who attains the age of 6 months during the taxable year, but only if—

"(i) the taxpayer has the same place of abode as such child throughout the period beginning with the birth (or, in the case of an adopted child, the adoption) of the child and ending on the date the child attains the age of 6 months, and

"(ii) the taxpayer performs no services for remuneration during such period.

In the case of a joint return, clauses (i) and (ii) shall be treated as met if one of the spouses satisfies the requirements of both such clauses.

"(B) INCOME LIMITATION.—Subparagraph (A) shall not apply to any taxpayer whose adjusted gross income for the taxable year exceeds 200 percent of the poverty level (adjusted for family size) for the calendar year in which the taxable year begins.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 406. INDIVIDUAL RETIREMENT ACCOUNTS FOR HOMEMAKERS.

(a) REPEAL OF LIMITATION ON AMOUNT WHICH MAY BE CONTRIBUTED.—Clause (i) of section 219(c)(2)(A) of the Internal Revenue Code of 1986 (relating to special rules for certain married individuals) is amended by striking "$2,250" and inserting "$4,000".

(b) DEDUCTION MAY BE ALLOWABLE EVEN IF SPOUSE IS ACTIVE PARTICIPANT.—Paragraph (1) of section 219(c) of such Code is amended by inserting "(without regard to subsection (g))" after "subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

TITLE V—MISCELLANEOUS FEDERAL CHILD CARE PROVISIONS

SEC. 501. PRESIDENT'S AWARD FOR PROGRESSIVE EMPLOYMENT POLICY.

(a) ESTABLISHMENT AND AWARD.—(1) There is hereby established the President's Award for Responsive Management Policy to honor public and private sector employers who have—

(A) successfully implemented in their businesses family-oriented personnel programs and policies responsive to the child care needs of working parents; or

(B) made significant contributions to child care projects in their communities.

(2) The President's Award for Responsive Management Policy shall consist of a certificate, plaque, or other appropriate citation.

(b) NOMINATION AND SELECTION.—Each year, the President, acting through the Secretary of Labor, shall solicit nominations for the President's Award for Responsive Management Policy from State and local elected officials, educational institutions, State-based employee or business associations, or other State or local entities. The President, in collaboration with the Secretary of Labor, shall select not less than 3 such nominees from each State to receive the President's Award for that year. Of the nominees selected from each State, at least 1 shall represent a small business, at least 1 shall represent an intermediate-size business, and at least 1 shall represent a large business.

(c) PRESENTATION.—The President shall present the President's Award each year with such ceremonies as he may deem proper.

(d) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to carry out the provisions of this section.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "intermediate-size business" means a business with at least 101 but not more than 500 employees.

(2) The term "large business" means a business with 501 or more employees.

(3) The term "small business" means a business with not more than 100 employees.

(4) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 502. COORDINATION OF FEDERAL CHILD CARE ACTIVITIES.

The Secretary of Health and Human Services shall coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal agencies.

COMPREHENSIVE CHILD CARE SERVICES ACT OF 1988

Mr. BOND. Mr. President, today I join my distinguished colleague from Utah [Mr. HATCH], who has already established himself as a leader in this area, in introducing a comprehensive child care package. The key to success of Federal child care efforts, I believe, is and must be State flexibility and responsibility.

The bill to be introduced will embrace this philosophy and includes provisions which will give the States the elbow room they need to make these programs effective. States will be able to receive block grants and use the money to develop programs tailored to their specific needs.

Mr. President, about two or three decades ago, perhaps only 10 to 20 percent of mothers were actually in the work force. Today that figure is up above 50 percent, and studies by the Department of Labor and by private groups in my home State, Missouri, have forecast that this percentage will rise to 63, to 64, or 65 percent. This rise has come about first because of need, but also because of rapidly expanding opportunities for women to participate and utilize their talents in the workforce today. Theirs is a great contribution to our society. But at the same time working parents have a desire to ensure that their children are well cared for while they work.

I have discussed the needs of working parents with providers of child care, State officials, and with others concerned in my home State about the issue of child care. Based on these discussions, we have joined with Senator HATCH to promote legislation which will allow programs already underway in many States to be tailored to meet the particular needs of each State. I believe that the bill that is to be introduced will meet the tests of availability, affordability, and safety, and will come within the constraints of the Federal budget that we must recognize.

First, this measure would provide incentives to encourage private employers to provide onsite child care. The bill would allow qualified employers to deduct up to 25 percent of startup costs for establishing onsite child care programs. It also authorizes a $100 million pool to assist States in establishing liability insurance pools. Any accredited child care provider could be a member of these pools.

In addition, it would provide limits on collateral sources and joint and several liability, areas which threaten through expanded liability the assets of any organization undertaking child care.

Second, the bill would provide assistance to States to allow them to tailor child care programs to individual employers. The block grant funds could be utilized to provide loans to set up employer sponsored care or to enable other providers to set up that care. It would allow these entities to receive child care assistance as needed in their own particular situation.

Third, another interesting, and I think useful, part of this bill would permit the utilization of existing school facilities for constructive after-school programs, something that has come to be recognized as one of the great opportunities that we overlook in our society. Today almost 23 percent of the children in this country are latchkey children. They go home after school to an empty house. Under this program, pilot projects similar to a very successful project which already exists in Independence, MO, could be set up to utilize school buildings after school to provide for the care of children.

Fourth, this bill would provide assistance to States to set up, establish, and enforce health and safety standards. This is very important and can best be done at the State level.

We would ask for the establishment by the Governors, of Child Care Advisory Councils to advise the legislature, the Governor, and the administration on appropriate standards.

Fifth—and I think very important—States could implement sliding-scale eligibility to remove disincentives for job advance among the working poor. In the State of Missouri, if the funds were available, they could be used to ensure that a working mother who, by hard work and skill achieves a higher pay scale which might reach the eligibility cap would not lose all day care assistance. It would allow a parent to increase his or her income without becoming ineligible for child care assistance, so there would be no disincentive for the working mother to obtain a higher wage.

Sixth, this program would provide assistance to States to establish programs to inform parents as to the kind of child care they should be seeking and to help them make an informed choice.

When I served as Governor of Missouri, I saw that many Federal attempts to address problems often resulted in overly cumbersome Federal regulations.

I believe this bill will meet the needs of the States. I will be discussing it with my former colleagues in the National Governors Association today, and I urge my colleagues to support its passage.

Mr. GRASSLEY. Mr. President, at 9:30 this morning, Senator HATCH held a press conference on the introduction of his new bill for child care services. I am pleased to join the Senator from Utah as a cosponsor of the Child Care Services Improvement Act. It is my understanding that he will introduce this vital legislation in the Senate sometime today.

The makeup and needs of the American families have experienced many changes. As policy makers, we must be responsive to their concerns, which includes day care for children. I am especially pleased to join in this effort with Senator HATCH. I know that he also recognizes and supports strong family values.

The Child Care Services Improvement Act of 1988 addresses many of the crucial issues facing child care providers. It would also alleviate the concerns of working parents regarding quality care for their children. This legislation would accomplish these tasks without onerous Federal regulations. Most importantly, it recognizes the importance of parental involvement with their children.

Well over half of today's youngsters have mothers in the labor force. As reflected in all social indicators, this number will undoubtedly continue to increase. Also, economic demands are forcing more mothers to return to work much sooner after the birth of a child. Fewer parents have the luxury of staying home with their children during the tender preschool years.

Deciding to place offspring in day care can be a painful process for many parents. Unfortunately, the process is further complicated by difficulties in obtaining affordable, high quality child care centers. The Senate's own child care center, for example, has a waiting list of 135 names. And that is for a center which cares for only 50 children. Most parents have to wait a year before they can get an opening at the center. It is especially challenging to obtain child care services in rural areas.

Even when parents have obtained child care, there are many special needs which can throw a monkey wrench into their arrangements. The most common example is temporary care for mildly ill children.

It is no wonder that there is a shortage of adequate child care providers. The business has many hidden expenses. This legislation would provide assistance for many of those costs. Block grants would be available to States and other local entities. Awards would be given to projects designed to improve delivery of child care services. In particular, these grants would provide seed money to local organizations to expand and create opportunities for child care services.

Another provision of the bill would alleviate some of the liability problems of child care providers. These liability provisions would not jeopardize the safety and well-being of children. They would simply limit the liability to those actions for which the provider is actually at fault.

Several incentives would diminish tax disincentives which now burden child care providers, such as opting out of employer Social Security requirements.

Of special importance to me, this bill also recognizes the importance of parental contact with their own children. It would double the personal exemption for parents who stay home with new born or newly adopted children at least 6 months. As we know well, nothing and no one can replace a parent's love and attention. This would encourage more parents to stay home longer with their children. Finally, the Child Care Service Improvement Act would allow equal contributions to IRA accounts for fulltime homemakers.

Mr. President, I am very pleased to join the Senator from Utah as a cosponsor of this very important legislation. I hope that my Senate colleagues will give it their full support.

● Mr. DANFORTH. Mr. President, I wish to express my strong support for the Child Care Services Improvement Act. Our country is faced with an enormous child care problem that deserves Federal leadership and a thoughtful response. I want to commend my distinguished colleague from Utah, Senator HATCH, for recognizing the problem and aggressively attacking it. In my view this is a very positive first step in the fight to help ensure that our Nation's children are cared for during the day.

In 1971, the White House Conference on Children voted child care as the most serious problem facing our Nation's children. The members of the conference urged the country to develop solutions. Today, a full 17 years later, we still have not addressed the problems adequately. According to a study completed by the Labor Department, only 2 percent of businesses now sponsor day care centers and 8 percent provide financial help or referral services. Existing programs designed to address this problem are woefully inadequate. Across the country child care centers and State programs to assist in child care have long waiting lists. The needs simply are not being met by the supply of affordable, good quality care.

There is a great deal of uncertainty about what the effect of our current child care system, or lack thereof, will be on the development of our Nation's children. In my mind, purchasing child care is purchasing an environment that will help determine the development of the child. These uncertainties are very disturbing given the numbers of children who are currently in child care programs. Today, some have estimated that as many as 26 million children, one half of the children in our country, do not have a parent in the home during the day as both parents are in the out-of-home work force. The Bureau of Labor Statistics reports that nearly 10 million children under age 6—or nearly half the children in the United States in that age group—are in households where the mother is in the labor force. Professor Ziegler, a well-known professor of child development and student of the child care problem in our country, has estimated that by the year 2000, 75 percent of all two-parent families will have both parents working in the out-of-home work force. Due to the significant numbers of children who need child care, our Nation must address the problems aggressively. We must ensure that these children are given good quality care that will allow them to develop into healthy, contributing members of society.

I certainly believe that child care should be first and foremost the family's responsibility. Parents best understand their children and obviously have a responsibility to those children and to their development. However, the changes in the family and workforce structures in recent years have meant that for many families there is no choice. Today, one in four children live in single parent families. More than half of our Nation's black children live in single parent families. In 1983, 25 percent of the two-parent families with both people working had incomes below $10,000 and 50 percent had incomes below $20,000. For these families, child care is a necessity rather than a luxury.

It is my understanding that four basic problems are straining the ability of many families to balance work and child-rearing responsibilities: availability, affordability, accessibility and quality of day care. The Child Care Services Improvement Act begins to address these problems. It would provide a series of payments to the States that would help establish and develop programs. There is a block grant that would serve as seed money to local organizations to establish or expand a variety of child programs; money that would help States establish a revolving loan fund from which family based child care providers may borrow to make capital improvements required to meet accreditation or li-

censing standards; and money that would be awarded to projects designed to improve child care services. In addition, the bill would provide tax incentives to encourage greater private involvement in the provision of child care and would begin to address the liability problem.

With respect to the liability issue, S. 2084 attempts to decrease the insurance burden suffered by many competent day care providers. To achieve this end, title II of the bill modifies rules concerning joint and several liability, collateral sources of compensation, and the awarding of punitive damages. In addition, it establishes a pool for the funding of State-operated child care risk retention groups.

The components of title II are well intentioned and should do much to reduce problems in this industry. However, because this legislation involves the interests of our children, we must be sure that these liability components will have no unintended effects on the responsibilities of child care providers. Specifically, we must ensure that any child who is injured as the result of the negligence of a child care provider will be given full compensation for any necessary medical treatment or related expenses.

In addition, attention should be given to the risk retention pool created by the act. Again, I am concerned about the possibility of unintended consequences, such as the unnecessary Federal regulation of certain private insurance companies.

In raising these concerns, my intentions are solely constructive. If these concerns prove to be well founded, I am prepared, at the appropriate time, to offer amendments to correct any problems.

In conclusion, I would like to commend the Senator from Utah for his attention to the problems surrounding child care. A solution is long overdue and the Child Care Services Improvement Act provides an important first step to solving the problems. I look forward to working with Senator HATCH in an effort to ensure that our children will be productive, contributing members of society in the future.●

By Mr. WEICKER (for himself and Mr. DODD):

S. 2086. A bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L'Ambiance Plaza in Bridgeport, Connecticut; referred to the Committee on Labor and Human Resources.

COMPENSATION FOR THE L'AMBIANCE PLAZA COLLAPSE VICTIMS

Mr. WEICKER. Mr. President, I rise today to introduce legislation to assure that the fines and civil penalties assessed by the Occupational Safety and Health Administration [OSHA] in the aftermath of the L'Ambiance Plaza tragedy are set aside for the families of those who died. I would note that this bill has the support of the International Association of Bridge, Structural and Ornamental Iron Workers, which is affiliated with the AFL-CIO. Ten months ago L'Ambiance Plaza, an apartment complex under construction in Bridgeport, CT, collapsed, killing 28 workers. Based on the findings of an investigation conducted by the National Bureau of Standards, OSHA imposed fines totaling $5.1 million on five construction companies involved in the project.

Assuming OSHA succeeds in collecting these fines—for some are being contested—under current law the money would go into the General Treasury for the Federal Government to use as it sees fit.

The bill I am introducing today seeks to put the money received as civil penalties into a trust fund to compensate the families who not only lost their loved ones in the accident but, in many cases, their major source of financial support as well.

The fund would be administered by the U.S. district court which has jurisdiction for the Bridgeport area. Claims could also be filed with the district court where the employer in question has its principal office. Final decisions regarding who is compensated and how much is awarded will rest with the courts. Any money remaining in the fund after a reasonable period of time has elapsed would go to the Secretary of Labor for deposit in the U.S. Treasury.

Mr. President, we cannot bring back the men who died or truly compensate their families for their loss. But we can see to it that any financial settlement benefits those who are the victims.

I urge my colleagues to join me in support of the bill. True, it deals with an accident in a single State. But the recent rise in construction deaths is a nationwide phenomenon. The trust fund I am proposing today is one aspect of the answer. More aggressive field inspections by OSHA is another and to that end Congress had directed a review of OSHA's onsite monitoring of new construction.

Hearings in both Houses of Congress have raised doubts about how well OSHA inspected the site and monitored the construction practices in use at L'Ambiance Plaza. Further hearings on the accident and on OSHA's inspection procedures will be held in the Senate Labor and Human Resources Committee in mid-March.

It is my hope that we can move ahead on both fronts to insure that the L'Ambiance tragedy is not repeated elsewhere in America and to see to it that those who have been hurt are helped.

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. 2086

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

SECTION 1. COMPENSATION FOR L'AMBIANCE VICTIMS

(a) PAYMENT TO TRUST FUND.—Notwithstanding any other provision of law, all civil penalties recovered under the Occupational Health and Safety Act of 1970 (29 U.S.C. 651 et seq.) as a result of the collapse of the L'Ambiance Plaza in Bridgeport, Connecticut on April 23, 1987, shall be paid into a trust fund established by the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

(b) FILING OF CLAIMS.—Any person physically injured, or survivor of a person killed, by reason of the collapse of the Plaza may file a claim with the court to recover all actual and consequential damages resulting from the collapse of the Plaza, incuding a reasonable attorney's fee, except that a person or survivor must exhaust civil remedies against private or public persons before restoring to the trust fund.

(c) PAYMENT OF CLAIMS.—The court shall use monies in the trust fund to compensate such persons for legitimate claims filed under subsection (b), in an amount determined by the court.

(d) CIVIL ACTIONS.—No private party against whom a civil action has been filed may offer as a defense to or in such action any payment or potential payment under this section.

(e) REMAINDER TO TREASURY.—After compensation is provided in accordance with this section and a reasonable period of time has elapsed (as determined by the court), all funds remaining in the trust fund shall be paid by the court to the Secretary of Labor for deposit into the Treasury and shall accrue to the United States.

By Mr. MOYNIHAN:

S. 2088. A bill to provide for flexibility in the use of Federal Highway Program grants authorized under title 23, United States Code, and other Federal infrastructure grants, to establish a National Infrastructure Corporation, to provide additional financing for a variety of public works improvements, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL INFRASTRUCTURE DEVELOPMENT ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce "The National Infrastructure Development Act of 1988". The purpose of this proposed legislation is to establish new mechanisms for financing the much needed work that must be done to rehabilitate and expand the Nation's public works improvements, the basic underpinnings of its well-being and economic growth.

OUR DECLINING INFRASTRUCTURE

The National Council on Public Works Improvement stated in its

report released today, Fragile Foundations, that there is "* * * convincing evidence that the quality of America's infrastructure is barely adequate to fulfill current requirements, and insufficient to meet the demands of future economic growth and development."

For example, while total real public works spending is increasing in absolute terms, from $60.4 billion per year in 1960 to $97.7 in 1985, it is declining as a Government spending priority. Federal, State, and local governments together devoted 6.8 percent (out of a $1.428 trillion total expenditures) of their budgets to public works in 1985, as compared to 19 percent (of $239 billion) in 1950.

According to an analysis prepared by the Federal Reserve Bank of Chicago, net public capital formation—the level of investment in roads, bridges, and so forth, after accounting for physical depreciation—tumbled from a high of 2.3 percent of GNP in the latter half of the 1960's to only 0.4 percent during 1980-1984.

In New York City, half the bridges are rated in poor or fair condition, some with visible cracks in their grating. In the case of one bridge last year, as reported by the New York Times, a hole "the size of a Buick" was found in the pavement. Many bridges have been partially closed, others require replacement.

There has been no major airport built in the United States since 1974 at Dallas-Ft. Worth.

Outside the small community of Amsterdam, NY, last April, a bridge on New York State's Thomas E. Dewey Thruway collapsed killing 10 people and causing untold economic loss.

According to the Los Angeles County Transportation Commission, the cost of congestion in Los Angeles County is about 485,000 hours per day of wasted time by drivers. That converts to a minimum of $507 million per year in wasted time and about 72 million gallons of gas per year—just in one county.

Three studies that have received a great deal of attention presented their findings in terms of annual capital investment shortfalls for major categories of public works infrastructure. These studies by the Congressional Budget Office, the Congressional Joint Economic Committee, and the Associated General Contractors found an annual shortfall ranging from $17.4 billion to $71.4 billion.

OUR WORK IN THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

We are now at an important turning point in the history of the Federal Government's role in infrastructure. In the last year the Congress has legislated the end of two major infrastructure programs. The Interstate Highway Program, which has spent $218 billion on our Nation's roads since its inception in 1956, is close to completion. The Clean Water Act of 1972, which has funded $52 billion in sewage treatment plant construction, will also be coming to an end with the passage of amendments to the Clean Water Act in 1987. We have turned most of this responsibility over to State and local governments.

At the beginning of the 100th Congress, we established the Water Resources, Transportation, and Infrastructure Subcommittee of the Committee on Environment and Public Works. Our intent was to examine the Nation's infrastructure, reevaluate our requirements and develop policies to meet them.

We have held five hearings, the first of which featured the historic appearance of the Speaker of the House, JIM WRIGHT, as a witness. We have learned much through this hearing process. We have also had the benefit of the work of the National Council On Public Works Improvement, which was commissioned by the Public Works Improvement Act of 1984 to survey our Nation's infrastructure and report to the President and the Congress.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1988

"The National Infrastructure Development Act of 1988" has two purposes: First, to provide State and local governments with maximum flexibility to finance those projects and activities which are local in nature, and second, to reinforce the traditional and time-honored Federal role in providing financial assistance for large, capital intensive projects. The bill also recognizes that we must spend our money wisely by conducting research and development activities and stimulating technological innovation.

STATE INFRASTRUCTURE REVOLVING FUNDS (SIRF'S)

To meet these two major objectives, the bill establishes both a set of State—and Urban—revolving funds [SIRF's] and the National Infrastructure Corporation [NIC]. The bill's first section would allow States to deposit many of their present infrastructure grant payments from the highway, mass transit and airport trust funds into these new State infrastructure revolving funds [SIRF's], where they would then be loaned out to municipalities for local infrastructure initiatives of all kinds. States choosing to establish such funds would receive a bonus of 25 percent over their normal Federal payments. By putting those funds into State hands, this bill gives States and localities an increasingly large role in setting their own funding priorities.

States would have flexibility in setting the kinds of loans these SIRF's could provide. Even if all States chose to provide only no-interest loans, a Federal investment of $46 billion—including present Federal grants and the 25 percent bonus—would make available over $76 billion in the first 10 years of the program. As initial loans are repayed, money is again available to be loaned out, and the State revolving loan funds become self-sustaining. Therefore, in the following 10 years, these SIRF's would make available an additional $48 billion for no-interest loans.

NATIONAL INFRASTRUCTURE CORPORATION [NIC]

This legislation also establishes a National Infrastructure Corporation to provide financial help to projects of regional and national importance that are beyond the resources of the SIRF's. Such might include new beltways around major cities, new major airports, or a new Williamsburg bridge over the East River, which alone could cost more than $600 million. The corporation would be limited to providing loans for at most a 25 percent share of the cost of any project. This would force each and every undertaking to undergo the test of finding a majority of its financing in other markets. This "market test" is a sound public policy principle which we developed in the Water Resources Development Act passed in the 99th Congress. By requiring local cost sharing, we have seen a dramatic downsizing of projects—now that the Federal Government is no longer paying 100 percent of the project costs. The work of highest priority is the work that is being done.

MONETARY RETURN ON INFRASTRUCTURE INVESTMENT

The capitalization of this corporation does not require us to raise taxes. The corporation would be funded from interest earned on the $23.5 billion in unexpended balances in the Federal transportation trust funds. Principal would not be touched and this interest will equal $2.3 billion per year. If we assume that corporation money is used only for no-interest loans, and that only 25 percent of project costs were covered by loans from the corporation, then a $16.7 billion Federal investment over 10 years could provide financial assistance to more than $85 billion worth of projects. By charging a modest interest rate of just 3 percent, 93 billion dollars' worth of projects can be funded.

I would stress that the specifics mentioned here are ideas only. I hope this bill will stimulate discussion and thinking, and that good ideas will breed more good ideas. Future additions may include modifications to the Tax Code to allow States and localities greater access to capital markets, or refinements to the basic structures outlined here.

Providing for the integrity and well-being of the basic structures and services required by a modern society will be one of the most problematic and challenging matters we will face in the

coming decades. We best start doing something about it now.

Mr. President, I would ask that my statement as well as the attached section-by-section summary of the bill be entered in the RECORD at this time, along with the full text of the bill. I ask that the bill be appropriately referred.

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

S. 2088

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Infrastructure Development Act of 1988".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the recent net disinvestment in the Nation's public works infrastructure has led to deteriorating roads and bridges, a dangerously overburdened air travel network, a crisis in the disposal of solid waste, and rapid deterioration of existing infrastructure for transportation, communication, waste disposal, and other needs of our advanced society;

(2) after accounting for physical depreciation, public capital investment in infrastructure has decreased dramatically as a percentage of the Gross National Product, from 2.3 percent in the late 1960s, to 0.4 percent in the early- to mid-1980s;

(3) shortfalls in public investment for infrastructure have been estimated to equal between $17 billion and $70 billion per year;

(4) local governments have become increasingly burdened with financing the construction and maintenance of public works infrastructure and the Federal share of public investment has dropped from 31 percent in 1960 to 27 percent in 1985, while the local share has risen from 41 percent to 49 percent during the same period;

(5) the National Council on Public Works Improvement has recommended that total capital spending on public works infrastructure at all levels of government be doubled;

(6) adequate infrastructure investment is necessary for an efficient and growing domestic economy, international economic competitiveness, and a sustainable standard of living and quality of life in the United States;

(7) the enactment of the Surface Transportation and Uniform Relocation Assistance Act of 1987 provided for the virtual completion of the interstate highway system, which has been the primary focus of Federal infrastructure funding since its inception; and

(8) the Nation is at a unique crossroads and must both reevaluate its spending priorities and create new financing mechanisms to address the needs of the future.

(b) The purpose of this Act is to provide new methods for financing investments in the Nation's public works infrastructure and to promote the more efficient expenditure of such investments—

(1) by providing for the leveraging of new and existing infrastructure investment;

(2) by promoting the development and use of innovative technology for public works;

(3) by encouraging investment in both small and large scale public works projects; and

(4) by providing for technical assistance to both State and local governments to encourage better use of their resources.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "infrastructure" includes the following:

(A) Highways;
(B) Roads;
(C) Streets;
(D) Bridges;
(E) Appurtenances to the items named in subparagraphs (A) through (D);
(F) Shoreline erosion protection facilities;
(G) Flood control facilities;
(H) Storm sewer and drainage facilities;
(I) Ports and harbors;
(J) Navigation channels and inland navigation facilities;
(K) Water impoundment facilities;
(L) Water collection, treatment, and distribution facilities;
(M) Irrigation facilities;
(N) Sewerage;
(O) Solid waste disposal facilities;
(P) Tunnels;
(Q) Public buildings;
(R) Airports and airport facilities;
(S) Mass transportation; and
(T) High speed surface transportation systems.

(2) The term "SIRF" means a State Infrastructure Revolving Fund established pursuant to title I.

TITLE I—STATE INFRASTRUCTURE REVOLVING FUNDS

TRANSFER OF FUNDS

SEC. 101. (a) For each fiscal year which begins on and after the effective date of this Act, the Secretary of Transportation shall pay to the appropriate Program Account of the State Infrastructure Revolving Fund of any State, established in accordance with section 102, such portion of—

(1) the funds allocated to the State under section 104(b)(2) of title 23, United States Code, for the Federal-aid secondary system,

(2) the funds allocated to the State under section 104(b)(6) of title 23, United States Code, for the Federal-aid urban system,

(3) the funds apportioned to the State under section 144 of title 23, United States Code, for replacement or rehabilitation of bridges that are not on the Interstate highway system,

(4) the funds apportioned to the State by reason of section 102(c) of the Federal-Aid Highway Act of 1987 (23 U.S.C. 104, note),

(5) the funds apportioned to the State under the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986, and

(6) the funds apportioned or otherwise available to the State under sections 3, 9(d), and 18 of the Urban Mass Transportation Act of 1964,

as the Governor of the State may request. Notwithstanding any other provision of law, such payments shall be made as soon as possible after the funds are allocated or apportioned to the State under such sections.

(b) Funds paid into a State Infrastructure Revolving Fund under subsection (a) shall be subject to all requirements that would otherwise be applicable to the funds under Federal law (including limitations imposed under section 120 of title 23, United States Code, on the share of a project that may be paid with Federal funds), but the State shall (except for loans described in section 102(b)(3)(B)), notwithstanding any other provision of law, use the funds to make loans which finance projects for which the funds are otherwise authorized to be expended.

AGREEMENTS TO ESTABLISH STATE INFRASTRUCTURE REVOLVING FUNDS

SEC. 102. (a) Each State electing to participate in the program established by this title shall enter into an agreement with the Secretary of Transportation for the purpose of ensuring that—

(1) in accordance with subsection (b), the State will establish a SIRF in the treasury of the State into which the State will deposit—

(A) any portion of the funds described in any of the paragraphs of section 101(a); and

(B) funds transferred from the National Infrastructure Corporation as "bonus funds" under section 234;

(2) amounts deposited in the SIRF of the State will be used by the State to make loans to departments, agencies, and instrumentalities of the State, to political subdivisions of the State, and to department, agencies, and instrumentalities of one or more political subdivisions of the State, and to interstate and regional authorities;

(3) loans made under paragraph (2) shall be used only—

(A) to buy or refinance the debt obligation of municipalities, intermunicipal agencies, and interstate and regional agencies within that State at or below market rates where such debt obligation was assumed at least 90 days before the date of enactment of this Act,

(B) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates,

(C) as a source of revenue or security for the payment of principal and interest on revenue or general obligations bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the appropriate SIRF Program Account or the General Infrastructure Account where appropriate, or

(D) to earn interest on SIRF accounts;

(4) such loans are made at or below market interest rates, including no-interest loans, at terms not to exceed 20 years;

(5) annual principal and interest payments shall begin not later than 1 year after the completion of any project and all loans will be fully amortized not later than 20 years after project completion;

(6) the State will set up procedures to require that those receiving loans from any of the SIRF accounts demonstrate an ability to pay back such loan over its entire life; and

(7) in the case of any project that has received a loan from the SIRF and also receives a direct grant from any source for project work that is covered by such loan, the State shall require timely repayment by the borrower to the SIRF in the amount of such grant.

(b)(1) Each participating State shall establish within its SIRF a Program Account for each corresponding type of funds transferred under any of the paragraphs of section 101(a) and for the bonus payment made by the National Infrastructure Corporation under section 234, apportioned among the Program Accounts in the same proportion as are the funds transferred under section 101(a) for that fiscal year.

(2) The State is required to deposit into the appropriate SIRF Program Account the amount of the State matching share relating to the funds transferred under section 101(a).

(3)(A) There shall be established within each SIRF a General Infrastructure Account (hereafter in this Act referred to as the "GIA") which shall be credited with—

(i) all repayments of the principal of any loan made out of the SIRF; and

(ii) any interest accrued on, or investment income from, such loans or the funds transferred to the State by section 101.

(B) Loans from the GIA may be provided to any project meeting the definition of infrastructure under this Act.

(4) For each SIRF Program Account, the State shall establish a Priority List for projects to be funded, and funding for projects within each Program Account shall be in accordance with such Priority List.

(5) The State shall designate an instrumentality of that State to carry out the administration of the SIRF, and this instrumentality shall have the necessary powers and limitations required to carry out the provisions of this section. The State may use funds in the SIRF for the reasonable costs of administering the SIRF and conducting activities under this section, except that such amounts shall not exceed 4 percent of all deposits in the SIRF for the fiscal year in which these costs are incurred.

(c) Funds in a State's SIRF are authorized to remain available until expended to carry out the purposes of this section.

(d) Any State electing not to establish a SIRF, or a particular Program Account within a SIRF, shall continue to receive the Federal grants otherwise receivable by such State without regard to this Act.

PASS-THROUGH FUNDS TO CITIES

SEC. 103. Any city receiving direct pass-through grants from the Urban Mass Transportation Administration, the Federal Highway Administration, or the Federal Aviation Administration shall elect one of the following options:

(1) Such city may continue to receive these funds as before the effective date of this Act for use as direct project grants.

(2) Such city may deposit such funds in a set of accounts in the SIRF that is dedicated solely for projects within the jurisdiction of the municipality originally receiving such grants, and the repayment of principal and interest from any loan made from the capital generated by any such account would be deposited in a City General Infrastructure Account within the SIRF of the same form as the State's General Infrastructure Account. This City GIA shall be used to fund projects meeting the same specifications as for the State GIA, except that such projects must be within the jurisdiction of such city.

(3) Such city may establish its own City Infrastructure Revolving Fund (CIRF), which shall meet the same requirements and specifications as mandated for a SIRF under section 102. In order to receive Federal payments for deposit into the CIRF, a city shall enter into an agreement with the Secretary of Transportation to abide by the same terms and conditions as described in section 102.

GENERAL INFRASTRUCTURE ACCOUNT PRIORITY LIST

SEC. 104. (a) Each participating State shall establish a GIA Priority List that takes into account the relative priorities established in the several Program Account Priority Lists for projects that have not been funded from the Program Accounts. This GIA Priority List shall include projects for which there is no SIRF Program Account, and the funding of these projects shall be considered on an equal basis as those projects that do meet the criteria for funding from one of the Program Accounts. Any loans made from the GIA shall be made in accordance with this GIA Priority List. In preparing this GIA Priority List, a State shall take into account—

(1) the financial hardship that not funding a project would cause to the municipality undertaking it;

(2) whether a project would be built without a GIA loan;

(3) the necessity of a project for such municipality to meet Federal or State environmental or health and safety guidelines and the likelihood of penalties falling on such municipality for not meeting such guidelines if a loan is not provided;

(4) the degree to which a project will provide for proper maintenance of existing infrastructure;

(5) the degree to which a project is receiving grants or loans from other sources; and

(6) the degree to which a project will lead to a general improvement of the public health and safety and the quality of the environment.

REPORTS

SEC. 105. (a) Not later than 30 days after the close of each fiscal year, the Governor of each participating State shall prepare and transmit to the Secretary of Transportation a report describing the activities of its SIRF during the preceding fiscal year.

(b) The Secretary of Transportation shall promptly make each such report available to the National Infrastructure Corporation.

AUDITS

SEC. 106. In the use of funds under this Act, each participating State, and any municipality receiving a loan from any of the SIRF accounts, shall use such accounting, audit, and fiscal procedures as are in accordance with generally accepted government accounting standards.

REALLOTMENTS; WITHHOLDING OF PAYMENTS

SEC. 107. (a) The amount of any funds not obligated by the State from any SIRF Program Account by the termination of the period specified by the appropriate Federal agency for the obligation of such funds when used as direct project grants shall immediately be reallotted by the Secretary of the Treasury on the basis of the same ratio as is applicable to annual grants to the State for the respective programs. None of the funds reallotted shall be reallotted to any State that has not obligated all sums allotted to such State in the first of the two preceding fiscal years. States receiving such reallotted sums shall deposit them in the General Infrastructure Account of such State's SIRF.

(b) If the Secretary of Transportation determines that a State has not complied with its agreement with the Secretary or with any other requirement of this title, the Secretary shall notify such State of such noncompliance and the necessary corrective action.

(c) If a State does not take corrective action within 60 days after receiving notification of noncompliance, the Secretary of Transportation shall withhold additional payments to such State until satisfied that the State has taken the necessary corrective action.

(d) If the Secretary of Transportation is not satisfied that corrective actions have been taken by the State within 12 months of notification of noncompliance, the payments withheld from such State shall be made available for reallotment in accordance with the most recently applied formula for the allotment of such funds under this section.

TITLE II—NATIONAL INFRASTRUCTURE CORPORATION

PART A—GENERAL PROVISIONS

SHORT TITLE

SEC. 201. This title may be cited as the "National Infrastructure Corporation Act of 1988".

DEFINITIONS

SEC. 202. For purposes of this title—

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the eight other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, including any municipality of the State, or an Indian tribe or tribal organization; or

(C) multi-State entity which possesses legal powers necessary to carry out activities under this title.

(4) The term "Corporation" means the National Infrastructure Corporation.

(5) The term "Director" means a member of the Board of Directors, including the Chairman.

(6) The term "financial assistance" means loans or loan guarantees, except as otherwise provided in part C.

(7) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in section 3 of the Alaska Native Claims Settlement Act.

(8) The term "loan" means a loan or commitment to loan.

(9) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness.

(10) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

PART B—ESTABLISHMENT OF THE CORPORATION

ESTABLISHMENT

SEC. 221. (a) There is hereby established the National Infrastructure Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

BOARD OF DIRECTORS

SEC. 222. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this title.

(2) The Board of Directors shall consist of a Chairman and eight Directors, selected as follows:

(A) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate.

(B) Six Directors shall be appointed by the President as follows:

(i) two Directors shall be governors of States or their designees,

(ii) two Directors shall be city mayors or their designees, and

(iii) two Directors shall be elected officials from county governments or their designees.

(C) Two Directors shall be the Secretary of Transportation and the Administrator of the Environmental Protection Agency or their designees.

(3) The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

(4) No more than five of these Directors shall be affiliated with the same major political party.

(b)(1) The appointed Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors among the Directors appointed by the President, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director appointed by the President may be removed from office by the President only for neglect of duty or for malfeasance in office.

(c) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States.

(d) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(e)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose—

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, utilities, or land; or

(ii) impede—

(I) the ability of the Corporation to establish infrastructure project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(f) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board and with concurrence of the President.

OFFICERS AND EMPLOYEES

SEC. 223. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code, for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided in this title, Directors, officers, and employees of the Corporation shall not be considered to be Federal employees for purposes of any law of the United States.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 222(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 224. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation and to employees of the Corporation whose compensation is established by the Board of Directors pursuant to section 223 at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as a Federal agency.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his knowledge, the Director or his spouse, minor child, partner, or an organization (other than the Corporation) in which the Director is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the Director is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 222(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section, to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 225. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this title other than those expressly vested in the Board of Directors pursuant to sections 222 and 223. The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this title to such other full-time Directors, officers, or employees of the Corporation as the Chairman determines appropriate.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the Corporation of any power, function, or authority not expressly authorized by the provisions of this title, except where such delegation is pursu-

ant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the provisions of chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

GENERAL POWERS

SEC. 226. In carrying out the provisions of this title, the Corporation shall have the power, consistent with the provisions of this title—

(1)(A) to adopt, alter, and rescind bylaws, rules, and regulations; and

(B) to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities, except that the Corporation shall not provide any financial assistance except as otherwise specifically authorized by this title;

(3) to lease, purchase, accept gifts or donations of, or otherwise acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act, in which actions the Corporation will be represented by the Attorney General;

(6) to make provision for and designate such committees, and the functions thereof, as the Board may determine necessary or desirable;

(7) to indemnify such Directors, officers, employees, and agents of the Corporation, as the Board may determine necessary or desirable;

(8) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(9) to procure insurance against any loss in connection with the Corporation's property and operations in such amounts and from such insurers as the Corporation determines proper;

(10) to receive capital contributions and to issue capital securities as provided in this title;

(11) to create, organize, and manage divisions and departments;

(12) to deposit moneys or funds of the Corporation in accounts insured by the Federal Government;

(13) subject to the provisions of this section, any moneys of the Corporation, including the proceeds of the sale of obligations, not required for immediate use by the Corporation, shall be invested in obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or in secured time deposit or other interest-bearing accounts secured by such obligations;

(14) to divest itself at any time of the obligations or equity securities of any applicant—

(A) by refinancing such obligations or equity securities;

(B) by offering such obligations or equity securities for public sale; or

(C) by any other method the Board may provide;

(15) to perform or authorize studies, or prepare or cause the preparation of reports and to convene meetings and conferences, and defray the costs and expenses of the foregoing; and

(16) to exercise all other lawful powers necessarily or reasonably related to—

(A) the establishment of the Corporation;

(B) carrying out the provisions of this title; or

(C) the exercise of the Corporation's powers, purposes, functions, duties, and authorized activities.

PUBLIC ACCESS TO INFORMATION

SEC. 227. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities, except that the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 222(e) as it pertains to minutes of meetings of the Board of Directors.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as a Federal agency.

AUDITS; RECORDS

SEC. 228. (a) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances of securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

(b) The Corporation shall maintain adequate books and records to support its financial transactions. The books shall be maintained in accordance with recommended accounting practices.

ANNUAL REPORTS

SEC. 229. The Corporation shall submit to the President and the Congress, within 2 months after the end of each of the Corporation's fiscal years, a complete and detailed report with respect to such fiscal year, setting forth—

(1) a summary of the Corporation's operations for such fiscal year;

(2) the Corporation's revenues and expenditures for such fiscal year and the Corporation's balance sheet as of the end of such fiscal year, each in accordance with the categories and classifications established by the Corporation;

(3) a schedule of the Corporation's obligations and capital securities outstanding at the end of such fiscal year, with a statement of the amounts issued and redeemed or paid during such fiscal year;

(4) the status of projects receiving funding; and

(5) an updated national priority list, as required by section 235.

TAX STATUS OF THE CORPORATION

SEC. 230. Any real property owned in fee by the Corporation shall be subject to taxation by a State, territory or possession, the District of Columbia, the Commonwealth of Puerto Rico, local governmental unit, or other local authority to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the value, classification, or assessment thereof.

PART C—AUTHORITIES

FINANCIAL ASSISTANCE FOR NATIONAL OR REGIONAL INFRASTRUCTURE PROJECTS

SEC. 231. (a) The Corporation shall establish a National Infrastructure Revolving Fund (hereafter in this title referred to as the "Fund") for the purpose of providing low-cost financing to major infrastructure projects. The Fund shall be capitalized in an amount equal to the amount of the capital stock of the Corporation.

(b) The Corporation, through the Fund, is authorized—

(1) to make loans on the condition that—

(A) such loans should be made at or below market interest rates, including interest-free loans,

(B) annual principal and interest payments will commence no later than 1 year after completion of the project,

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans, and

(D) the Fund will be credited with all payments of principal and interest on all loans;

(2) to earn interest on fund accounts; and

(3) to deduct a fee for the reasonable costs of administering the Fund and conducting activities under this title, except that such amounts shall not exceed 2 percent of Fund receipts in that year.

(c) Financial assistance provided under this section to any major infrastructure project shall not exceed 25 percent of the total project costs necessary to carry out the project.

(d) Applicants for financial assistance must demonstrate that such projects meet the requirements set forth by the Board and meet the rate of return criteria required by the Board in this section.

TECHNICAL ASSISTANCE

SEC. 232. (a) The Corporation is authorized to provide technical assistance to qualified concerns. Such assistance shall be for—

(1) assisting municipalities in obtaining financing for infrastructure purposes;

(2) providing local infrastructure management with education and training programs;

(3) providing national long-range infrastructure planning and needs analysis; and

(4) assisting the participation by States and localities in the SIRF program as established in title I.

(b) In order to qualify, a concern shall submit an application to the Corporation,

together with such information as the Board of Directors may prescribe demonstrating that such assistance would carry out the purposes of subsection (a).

TECHNICAL INNOVATION, RESEARCH, AND DEVELOPMENT

SEC. 233. (a) The Corporation is authorized to develop a program to provide for the advancement of technological innovation, technological transfer, and research and development as it pertains to infrastructure.

(b) The Corporation is authorized to make appropriate arrangements with the National Academy of Sciences to design such a program.

(c) The Corporation is authorized to utilize to the extent possible the existing Federal and university research programs in order to accomplish this objective.

BONUS PAYMENTS TO THE SIRFS

SEC. 234. (a) The Corporation shall pay into the SIRF of each participating State an amount, out of the National Infrastructure Revolving Fund, equal to 25 percent (for the first fiscal year after the effective date of this Act) and 10 percent (for each fiscal year thereafter) of the Federal share of grants deposited into the State's SIRF during the preceding fiscal year.

(b) Funds paid to a State by the Corporation pursuant to this section may be referred to as "bonus payments".

ESTABLISHMENT OF PROJECT DEFINITIONS, ELIGIBLE COSTS, ELIGIBLE PROJECTS, AND PRIORITY LIST

SEC. 235. The Board of Directors shall—

(1) establish criteria for infrastructure projects eligible for financing with the National Infrastructure Revolving Fund;

(2) define project costs for such projects that shall be eligible for receipt of money from such Fund;

(3) after the establishment of criteria under paragraph (1), receive proposals for projects from eligible States, municipalities, intermunicipal agencies, interstate agencies and other eligible public entities;

(4) develop a national priority list for the prioritization of such project proposals as the Board of Directors determines meet the criteria established in paragraph (1), are eligible under paragraph (2), and are in accordance with the purposes of this title; and

(5) only fund projects on the national priority list.

PART D—CAPITALIZATION AND FINANCE

CAPITAL STOCK

SEC. 241. (a) The Corporation shall have capital stock subscribed by the Secretary of the Treasury equal to the amount of funds derived from interest earned annually on the balances maintained in the funds described in section 242.

(b) The Secretary of the Treasury may subscribe to additional capital stock at any time so authorized by the Congress through the imposition of additional taxes or appropriations of additional funds by Congress.

(c) Five percent of annual capitalization shall be available for research and development, innovation, and technical assistance.

TRUST FUND INTEREST

SEC. 242. Paragraph (3) of section 9602(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) INTEREST ON CERTAIN PROCEEDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the interest on, and the proceeds from the sale or redemption of, any obligations held in a Trust Fund established by subchapter A shall be credited to and form a part of the Trust Fund.

"(B) CERTAIN INTEREST USED FOR NATIONAL INFRASTRUCTURE CORPORATION STOCK SUBSCRIPTION.—The interest on any obligations held in a Trust Fund described in section 9502(a) or 9503(a) shall be available to carry out the capital stock subscription described in section 241(a) of the National Infrastructure Corporation Act of 1988.".

TITLE III—EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendment made by section 242 of this Act shall take effect with the first fiscal year that begins after the date of enactment of this Act.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1988

The purpose of this bill is to promote greater investment in public works infrastructure. It would allow States to establish State Infrastructure Revolving Loan Funds to be capitalized by Federal grant payments. These funds would provide loans for projects on the State and local level. The National Infrastructure Corporation created in Title II would help finance larger scale infrastructure projects of regional and national scope, provide technical assistance to States and localities participating in the Revolving Fund program, and develop an infrastructure Research and development program.

This bill does not emphasize investment in one type infrastructure over any other, but allows for greater investment in all types of infrastructure. In the case of State Revolving Funds, States and localities would be given an increasingly large voice in setting funding priorities. At the national level, the Corporation would develop a National Priority List for large projects. A brief outline follows.

GENERAL PROVISIONS

The Congress finds that there is substantial underinvestment in public works infrastructure, that this is to the detriment of the nation, and sets a goal for this bill: to create new financing tools that will lead to greater capital formation for investment in public works infrastructure. This section sets out definitions for terms central to the debate and to the bill—"infrastructure" would be defined as:

"Highways, roads, streets, bridges and appurtenances thereto: shoreline erosion protection facilities; flood control facilities; storm sewer and drainage facilities; canals and inland navigation facilities; water impoundment facilities; waste water collection and treatment facilities; water collection, treatment and distribution facilities, irrigation facilities; sewerage; solid waste disposal facilities; tunnels; public buildings; airports and aviation facilities; mass transportation facilities; high-speed surface transportation facilities and port and harbor facilities."

TITLE I: STATE INFRASTRUCTURE REVOLVING FUNDS

1. General Requirements

States and localities presently receive grants from the federal government for a variety of public works purposes, some of which come from the general fund and some from the user fee-supported transportation Trust Funds.

This bill would give States (and some localities) the option of depositing a portion of these payments in a State Infrastructure Revolving Fund, to be subsequently loaned out for the same types of projects presently receiving grant money. Grant payments of clear national priority, such as Interstate Highway Construction and 4-R grants, would not be eligible for deposit. Those eligible for deposit would be the secondary road program, urban road program, the non-interstate portion of the bridge program (about 20 percent of all bridge grants) and ½ percent minimum grants from the Highway Trust Fund, 50 percent of the Mass Transit formula grants program, and the Airport grants program from the Airport and Airway Trust Fund. The following table shows the approximate annual contribution to all State revolving funds in millions of dollars:

PAYMENTS TO THE PROPOSED STATE INFRASTRUCTURE REVOLVING FUNDS IN THE FIRST YEAR OF THE PROGRAM

	Federal		State matching share
	Grants	25 percent bonus	
Highways	2,450	612	810
Transit	1,050	263	260
Airport	600	150	150
Totals [1]	4,100	1,025	1,220

[1] $6.35 billion flowing into the State Revolving Funds.

As shown above, States choosing to place federal grants in a Revolving Fund would be paid an extra 25 percent in the first year over and above their normal grants, to come from interest accrued on unexpended balance in the federal Trust Funds (see Title II for details.) The original 25 percent bonus payment would be reduced to 10 percent in subsequent years. This over $1 billion in "new" money would serve as an incentive for States to participate in the program and begin using their grant money for loans.

The intent of this program is to allow States great flexibility in the use of all funding dedicated to infrastructure. Even if all States established such Revolving Funds, a preponderance of federal infrastructure payments would remain in the form of grants. States would be encouraged to reprogram their own infrastructure spending for projects that could not be built without grant funding, and use their Revolving Funds for work better suited to loan financing. At present, the majority of government investment in infrastructure is by States and localities; federal grants account for just one-quarter of total investment.

The Department of Transportation would continue to administer these grants at the federal level, and would be required to certify that State Revolving Funds meet the requirements laid out in this Act.

2. Structure of the State Revolving Fund

Each Revolving Fund would contain a number of Program Accounts, with one corresponding to each federal grant program. Capital generated by these accounts would be loaned out for projects meeting the same eligibility requirements as for the corresponding federal grant program (including State matching share requirements). However, all repayment of these "first-round" loans would go into the Fund's General Infrastructure Account, and would thereafter be eligible for any and all qualified infrastructure projects (see the definition of infrastructure in General Provisions). This structure will retain the earmarked quality of these grants when they arrive in a State Fund (bridge money only being available for loans to bridge projects, for example), but would give the States greater flexibility in determining their own priorities in later

years when money has been loaned out and repaid once.

3. Project Assistance from the State Revolving Fund

The bill directs States to establish a priority list for each Program Account, as well as an overall infrastructure priority list for money in the General Infrastructure Account. All projects would be funded with reference to these lists.

In addition, there would be certain minimum standards for any financial assistance provided by State Revolving Funds. They could make possible loans or interest buydowns to provide financial assistance at below market interest rates, at terms not to exceed the useful life of the project or 20 years, whichever is greater, or could be used to refinance eligible debt taken on in the 90 days prior to enactment. All loan recipients would be required to demonstrate an ability to pay back a loan over its entire life.

4. Urban Revolving Funds

Large urban areas that presently receive direct federal payments (mostly for mass transit, airport and urban highway programs) would have three options. They could (1) set up their own City Revolving Fund, (2) establish separate City Accounts in the State Revolving Fund if their State has established such a Fund, or (3) continue to receive their direct grant payments. City Revolving Funds would be set up on the same model as State Revolving Funds.

TITLE II: THE NATIONAL INFRASTRUCTURE CORPORATION

1. The National Infrastructure Fund

All interest that accrues on the $23.5 billion balance in the federal transportation Trust Funds would be paid into the Natonal Infrastructure Fund, to be administered by the National Infrastructure Corporation in the manner outlined below. The Fund would serve as the capital stock of the Corporation.

These payments of Trust Fund interest would constitute the only budgetary impact of the bill. The Congressional Budget Office estimates that this interest will be $2.3 billion in fiscal year 1989.

2. Establishment of the Corporation

State Revolving Funds would be primarily responsible for funding projects of local and statewide interest. The non-profit National Infrastructure Corporation would provide financial assistance to regionally or nationally important projects beyond the resources of the State Revolving Funds, such as new beltways, major airports and high-speed ground transportation systems. The Corporation would be limited to lending at most a 25 percent share of the cost of any project. By so limiting federal assistance, projects would have to meet the market test of obtaining 75 percent of their financing from other sources.

A nine-member Board of Directors would be appointed by the President, with the Chairman to be a full time employee of the Corporation subject to Senate confirmation. Other directors would be as follows: two Governors, two city Mayors, two county officials, the Secretary of Transportation and the Administrator of the Environmental Protection Agency. No more than five of the Directors could be affiliated with the same political party. The Board would make annual reports to Congress on the activities of the Corporation.

3. Duties of the Corporation

A. Financing of major projects. The burden of defining exact criteria for the types of projects that would be eligible for Corporation financing would rest with the Board of Directors, within general guidelines provided by the Congress as part of this Act. In addition, the Board would make clear what types of costs within any projects could be covered by Corporation money. Financial assistance would be in the form of loans, Corporation guarantees of private loans, interest buy-downs and the like. The Corporation would not make direct project grants.

The Board would accept proposals for eligible projects from public instrumentalities, including cities, States, interstate agencies, regional development agencies and others. These would be reviewed and placed on a National Priority List, and funds would be dispersed based on this list as well as on other specific criteria developed by the Board.

B. Payments to State revolving funds. The Corporation would make bonus payments described in Title I out of the Fund to those States choosing to establish State Revolving Funds. These payments would go directly from the National Infrastructure Fund into the various Program Accounts within the State Revolving Funds.

C. Research and development and technical innovation. Five percent of the Corporation's annual capitalization receipts would be earmarked for a comprehensive national and regional program to promote research and development and technological innnovation for public works infrastructure. The Board would make appropriate arrangements with the National Research Council of the National Academy of Sciences to develop such a program.

D. Technical assistance. The Corporation would be required to design and implement a program to provide technical and legal assistance to localities and others applying for loans from the State Revolving Funds. Likewise, it would help States and cities in establishing their Revolving Funds.

By Mr. MELCHER (for himself and Mr. WIRTH):

S. 2089. A bill to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and for other purposes to the Committee on Energy and Natural Resources.

OIL MINING CLAIMS CONVERSION ACT

●Mr. MELCHER. Mr. President, today I am introducing legislation, with Senator WIRTH, to settle nearly 70 years of controversy regarding oil shale mining claims located under the mining law of 1872 prior to passage of the Mineral Leasing Act of 1920.

The need for this legislation arises following more than 50 years of litigation over oil shale mining claims and the highly controversial settlement last year by the Department of the Interior of litigation involving some of the oil shale claims in Colorado. Under the settlement, the United States agreed to issue patents for $2.50 per acre—the U.S. taxpayer received a mere $205,000 for 82,000 acres of land. The beneficiaries of this agreement included Exxon Corp., TOSCO Corp., Union Oil Co. of California, Amerada-Hess Corp., and other oil and energy companies, as well as individuals.

I do not believe that all of the contested oil shale claims in the settlement met the requirements of the mining law. It is a travesty that the U.S. Government turned these lands over for $2.50 per acre, and I want to prevent the same situation from occurring on the remaining 270,000 acres of which oil shale mining claims have been located. My bill would achieve this objective.

The Mineral Leasing Act of 1920 removed oil shale from location under the 1872 law and made it subject to a leasing system. However, the existing oil shale claims were grandfathered by the Mineral Leasing Act and remain subject to the requirements of the 1872 mining law. Under the mining law of 1872, claimants on the Federal lands can apply for and receive a patent granting full fee simple title to those lands for $2.50 per acre, providing certain requirements are met.

The requirements of the 1982 act include the discovery of a valuable mineral deposit, performance of 100 dollars' worth of annual assessment work and prior to receiving a patent, the expenditure of 500 dollars' worth of labor or improvements per claim.

There are questions to be asked: what proof has been presented that $100 per year of assessment work was done on each of the remaining thousands of oil share claims? And on what basis has it been demonstrated that there will be production of oil from the shale or that there is even any intent to produce oil commercially from those lands?

The legislation I am introducing addresses these problems in a manner that ensures that our public resources are not being given away indiscriminately at fire sale prices. The bill provides that no patents for oil shale claims shall be issued after February 5, 1987, unless a patent application had been filed and all requirements met by such date, consistent with the requirements of *Freese* v. *United States*, 639 F. 2d 754 (Ct. Cl. 1981), cert. denied, 454 U.S. 827 (1981). An oil shale claim holder would be required to elect to either hold the claim or convert the claim to a lease, subject to certain requirements.

It was never the intent of Congress that these claims be held for over 67 years without shale oil being developed. It was never the intent of Congress that patents be issued without annual assessment work being performed on the mining claims.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act shall be known as the "Oil Shale Mining Claims Conversion Act".

SEC. 2. Notwithstanding any other provision of law, with respect to any oil shale mining claim located prior to enactment of the Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq.; 41 Stat. 437), no patent for such claim shall be issued after February 5, 1987, except for those claims for which a patent application had been filed and all requirements for a patent had been fully complied with by such date.

SEC. 3. (a) The owner of any valid oil shale mining claim located pursuant to the General Mining Law of 1872, as amended (30 U.S.C. 22, et seq.; 17 Stat. 91) prior to enactment of the Mineral Leasing Act of 1920 shall make an election under subsection (b) or subsection (c) of this section. The election shall be made within 180 days after the enactment of this Act. Failure to make an election within such period shall be deemed conclusively to constitute an abandonment of the oil shale claim. Not later than thirty days after the enactment of this subsection, the Secretary shall notify the owner of each such claim of the election required under this subsection.

(b) The holder of a claim required to make an election under this section may elect to convert such claim to a lease. Such lease shall be issued within 60 days after any such election and administered in accordance with those provisions of the Mineral Leasing Act of 1920, as amended, applicable to leases for deposits of oil shale, except as follows:

(1) The term of the lease shall be for 20 years and for so long thereafter as shale oil is produced annually in commerical quantities from the lease;

(2) The acreage limitations contained in section 21(a) (30 U.S.C. 241(a)) shall not apply;

(3) The first and second provisos of section 21(a) shall not apply;

(4) The limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply; and

(5) The royalty shall be not less than 12½ per centum in amount or value of production removed or sold from the lease.

(c) The holder of a claim required to make an election under this section may elect to maintain the claim by complying with the mining laws of the United States and with the provisions of this Act, including the following:

(1) Notwithstanding any other provision of law, commencing with the date of enactment of this provision, on each claim $1,000 worth of labor shall be performed or improvements made during each and every year. The failure to fulfill this requirement each and every year shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

(2) Notwithstanding any other provision of law, in addition to the requirements set forth in Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744; 90 Stat. 2769), the owner of an unpatented oil shale mining claim shall file annually in the office of the Bureau of Land Management designated by the Secretary of the Interior an affidavit of assessment work performed thereon. The failure to file the affidavit shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

(3) If at the expiration of 10 years from the date of enactment of this Act shale oil is not being produced in significant marketable amounts from each oil shale claim, or for the benefit of each such claim, such failure to produce in significant marketable amounts shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

SEC. 4. In addition to other applicable requirements, any person who holds a lease pursuant to subsection 3(b) of this Act or who maintains an oil shale mining claim pursuant to subsection 3(c) of this Act shall be required to reclaim the site subject to such lease or claim and to post a bond before disturbance of the site to guarantee such reclamation. Any person who holds a lease issued or readjusted pursuant to section 21 of the Mineral Lands Leasing Act of 1920 after the date of enactment of this Act shall also be subject to such requirements. The Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.●

Mr. WIRTH. Mr. President, I am pleased to join with Senator MELCHER in introducing this legislation that will close the books on a controversy that has been simmering for 60 years. It is time to take down the for sale signs that are hanging over hundreds of thousands of acres of public lands in Colorado and other Western States. If this legislation is enacted into law, the for sale signs will come down.

This legislation addresses the problem of oil shale mining claims that were filed across parts of the West before the Congress passed the Mineral Leasing Act in 1920. Few, if any, of those claims have ever been developed. In many cases, assessment work that the general mining laws requires to be done every year was just not done, for years at a time. And there are very real questions whether these claims will be economically viable in the foreseeable future, if ever.

Nevertheless, in 1986 the Department of the Interior established the precedent of selling 82,000 acres of public land in Colorado burdened with pre-1920 oil shale mining claims, at the bargain basement price of $1.50 an acre. Those lands were prime habitat for the largest mule deer herd in North America. Every autumn, hundreds of people from Colorado and across the country used these lands for hunting.

Since these lands were part of the public domain, they were open to families who wanted to camp, hike, or just picnic in the Nation's great outdoors. And ranchers had Federal permits to graze sheep and cattle on these lands. As every westerner knows, those Federal permits can mean the difference between life and death for ranchers.

Until 1986, these lands were open to every Coloradan, indeed every American. Today, they are no longer part of the national legacy of public lands.

The legislation that Senator MELCHER is introducing today, and which I am proud to cosponsor, will prevent the issuance of oil shale patents for any more public lands. This legislation will ensure that these lands remain in public hands, where they rightfully belong.

At the same time, this legislation is fair to those who say they want to develop oil shale. This legislation will permit miners to maintain their claims under the 1872 mining law, although they won't be able to get title to the surface of the land. But this legislation also says that the mining claimants have to develop the oil shale in 10 years, or lose the claims. That is a very fair deal, Mr. President.

The mining claimants would also have the right to convert their claims to 20-year leases. Again, Mr. President, that is a very fair offer. These claims have been around the land for more than 60 years, with little evidence that the claims will ever be developed. This bill would give the claimants another 20 years to prove their claims.

But most important, this bill will keep these lands in public ownership. Ranchers won't lose their grazing permits. The public won't lose their access for hunting or camping or hiking. And the public trust in these lands will have been preserved.

This is a fair bill. It is in keeping with this Nation's longstanding commitment to wise use of its natural resources. And I urge our colleagues to join with us in supporting the bill.

By Mr. MELCHER:

S. 2090. A bill to amend the Internal Revenue Code of 1986 to modify the rules regarding the refunding of qualified small issue bonds; to the Committee on Finance.

REFUNDING OF QUALIFIED SMALL ISSUE BONDS

● Mr. MELCHER. Mr. President, the legislation I am introducing today will give some relief to those people who invested in their communities with small issue bonds.

When these people invested in these bonds, they had no idea Congress would change the rules in midstream. Under the new tax law, however, these people are finding that their investment may be no longer tax-exempt if they try to refinance their bonds in order to stretch out the repayments. In ordinary business practice this is not uncommon and is often essential for a business to continue its operations.

This legislation simply would permit these people to refinance their bonds without considering the bonds reissued under the new tax law as long as the average maturity date of the issue is not later than 5 years after the average maturity date of the bonds to be refunded by such issue.

This bill will correct a bad provision in the Tax Code and a correction that is urgently needed.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2090

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

SECTION 1. MODIFICATION OF RULES REGARDING REFUNDING OF QUALIFIED SMALL ISSUE BONDS.

(a) MATURITY DATE OF REFUNDING BONDS.—

(1) IN GENERAL.—Subclause (I) of section 144(a)(12)(A)(ii) of the Internal Revenue Code of 1986 (relating to termination dates for qualified small issue bonds) is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than 5 years after the average maturity date of the bonds to be refunded by such issue,".

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 144(a)(12)(A) of such Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B) Subparagraph (A) of section 144(a)(12) of such Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii)(I) average maturity shall be determined in accordance with section 147(b)(2)(A).".

(b) INTEREST RATE RULE REMOVED.—Clause (ii) of section 144(a)(12)(A) of such Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.●

By Mr. DURENBERGER (for himself, Mr. BAUCUS, Mr. STAFFORD, and Mr. CHAFEE):

S. 2091. A bill to protect the ground water resources of the United States; ordered held at the desk until the close of business on February 29, 1988.

GROUND WATER PROTECTION ACT

Mr. DURENBERGER. Mr. President, I am today introducing the Ground Water Protection Act, a bill to protect and restore the ground water resources of our Nation. I am joined on this legislation by Senators BAUCUS, STAFFORD, and CHAFEE.

Mr. President, the bill is our attempt to create a comprehensive strategy to protect and restore the precious and unique national resource which is our ground water. The bill is built on five basic principles.

First, that we place our highest priority on the prevention of contamination.

Second, that all of the ground water resource should be protected.

Third, that the drinking water supply for all Americans—including those who depend on private wells—should be of the same high quality.

Fourth, that the focus of a prevention program should be on the sources of contamination and the prevention technology and practices that can be applied at those sources.

And fifth, that State and local government must be our first line of protection, with Federal expertise and guidance allowing flexibility to address varying contamination problems around the Nation.

Mr. President, I will have more to say about each of those five principles in a moment but let me first say that ground water protection is about to become a much more active item on the Congressional agenda. This week the Committee on Environment and Public Works began a series of hearings on ground water protection legislation. Our first topic is the Federal Government's role in ground water research. I've had the great pleasure of joining with Senator BURDICK, the distinguished chairman of our committee, to introduce legislation, S. 1105, which creates new research authorities for the Environmental Protection Agency, the Geological Survey and the Department of Agriculture. Those hearings will go through the end of March.

And last week on Wednesday the Agriculture Committee began its work to rewrite the Nation's pesticide law. I have joined with Senator LEAHY, the chairman of that committee, as an author of the Ground Water Safety Act, a bill which is intended to protect ground water supplies from pesticide contamination. We expect that bill to be added as an amendment to the pesticide reauthorization. Senate action on both these bills—ground water research and pesticide reform—can be completed this year.

To prepare for these events, I have done two things. Two weeks ago I held six hearings across the State of Minnesota to give my fellow citizens an opportunity to have a say in this debate. They were very lively sessions and as always I got more good advice than the Congress could ever digest. But I came across some new ideas and new concerns which I will share with you today.

The second thing I've done is to complete work on this comprehensive ground water protection bill. It is a comprehensive bill like the Clean Air Act and Clean Water Act are comprehensive protection programs for our air and surface water resources. It's not the kind of legislation that Congress can pass right away. We will have many opportunities to discuss its details and adjust its specific provisions before it leaves this body.

What I'd like to do today is to describe the five main themes or principles that guided the development of this comprehensive legislation.

The first principle is that a comprehensive ground water protection program must focus on prevention.

We have heard many times—we heard again at our hearing yesterday—the statistics about our ground water resource. Ground water provides drinking water to 50 percent of our population—117 million Americans. Ninety-seven percent of Americans in rural areas rely on ground water for their household water needs. Ground water is the source of 30 percent of the water in our rivers and streams and may be the whole source in critical low flow periods when surface runoff is absent. There are millions of potential sources of ground water contamination—20 million septic tanks, 6 million storage tanks, 2 million miles of pipelines, 250,000 injection wells, 180,000 surface impoundments, 240 million acres of cropland sprayed with pesticides and fertilizers. It is a vast and complex resource.

But just let me add two more numbers to that picture. First, is the cost of the Superfund Program—$1 billion $500 million per year, 80 percent of which is directed at cleaning up ground water pollution. Superfund sites are so numerous and expensive, that we had to go to a broad-based, Federal tax—a corporate surtax—to clean them up.

By way of comparison, and this is the second number, EPA provides grants of only $6 million per year to the States for ground water protection strategies. Eighty percent of $1.5 billion for cleanup, $6 million for prevention. That's upside down. And when we tried to get the Congress to provide an additional $8 million to help the States implement the new wellhead protection program—I suspect not much more than the paperclip budget for the Superfund office—we were told there isn't $8 million worth of room in the Federal budget for new ideas. Well, we need to turn that kind of thinking around.

A focus on prevention is no more than an acknowledgement of the special nature of the ground water resource. There are characteristics of ground water which set it apart from surface water supplies.

First, it is not tested or treated before we drink it. Large urban communities like the Twin Cities of my home State which use surface waters for their drinking water thoroughly treat the water before it reaches the consumer. The water is disinfected with chlorine to kill biological contaminants and filtered to take out the solids and other pollutants.

Ground water on the other hand—and especially for small communities and those relying on private wells—often goes right to the tap without any treatment. We drink it as we find it.

Second, pollutants in ground water may be much more concentrated than in surface waters. Waters in rivers and

lakes move rapidly and pollutants introduced at one point are quickly diluted by mixing with large volumes of water. Recall the recent Ashland oil spill in Pittsburgh.

But ground water moves very slowly and there is little mixing. A spill of liquid chemicals on the surface or a leak from a landfill or underground tank will create a plume of contaminants which will stay concentrated as it moves through the aquifer.

Where a serious incident of surface water pollution might produce contaminants in the range of 10 or 100 parts per million, the same contaminant may be found in ground water at several thousand parts per million. If you are drinking ground water untreated and you are pumping it from one of those contaminated plumes, the threat to your health may be very serious.

Third, it is practically impossible to clean up an underground aquifer once contaminated. In fact, despite Superfund and all of our other efforts, no one has ever restored a contaminated aquifer to its original condition.

We have made great strides as a Nation in restoring surface water quality over the past two decades. It has cost billions of dollars in Federal appropriations and industry expenditures. Rivers and streams are resilient. When we quit polluting, they are regenerated by the forces of Nature. Measurable progress has been made. But we dare not think that we could do the same for ground water, if it should become widely contaminated by intention or neglect.

So, ground water is often delivered untreated to the consumer. When polluted, the level of contamination may be very high. Once polluted, it is practically impossible to clean up. All of that argues for a protection strategy based on preventing contamination and that is the first principle which should guide our ground water legislation.

The second principle is that the ground water resource to be protected should be broadly defined. On this issue there appears to be two opposing views. One group favors a strategy that is sometimes called nondegradation. Those who favor a nondegradation goal want the resource broadly defined and all of it protected.

The alternative view is called differential protection. It argues that aquifers can be classified by their value or vulnerability and that some ground water can be allocated to uses that allow—that invite—degradation. This aquifer will be an industrial dump. That aquifer will be given over to agricultural chemicals. And so on.

This is currently the big issue in the debate on the Ground Water Safety Act, the pesticide bill I mentioned earlier. There it is a question of definition. What is the resource of concern. Some of us want to protect ground water. All of it.

Others argue that we need only protect water that is likely to reach a drinking water well. Waters that are shallow, that are remote from settled places, waters that are already contaminated by brine or nitrates or whatever, do not deserve protection from pesticides, some argue.

I'm on the nondegradation side of that debate. I'm there because ground water is different from surface water or air. It is not a resilient resource. If we choose to use an aquifer as a sink for pesticides, that is not just our decision. It's a decision which can't be reversed when our generation is done with the resource. It's a decision that will affect the choices available to our children and their children. Who's to say where the Americans of 2020 will want to put a drinking water well. Ground water is not simply a pathway by which we are exposed to our own garbage. It is a link to the future. We are its stewards and it is our job to protect the resource wherever possible.

Let me read you some of the actual text from the comprehensive ground water protection bill that we are introducing today. First, the goal:

> The purpose of this Act is to protect and enhance the physical, chemical and biological integrity of the Nation's ground water resources and to ensure that such resources are not degraded in any way.

That's the goal stated in the bill. It is accompanied by the following statement of policy:

> It is national policy to protect the quality and quantity of the ground water resources of the United States for the widest range of uses both for this generation and for posterity. Consistent with this policy, the goal of this Act is non-degradation, the ground water resources is broadly defined, and the protection afforded is for the resource and not solely its current users. That a particular aquifer or its portion is not currently used, or within the foreseeable future intended to be used, for a drinking water supply is not sufficient cause to allow degradation of that resource. Although some minor portion of the ground water resources of the Nation may be irreversibly or irretrievably committed to use and consumed during the stewardship of this generation, it is not the policy of the United States to allocate costs associated with current social and economic activities to future generations as ground water contamination.

The third principle reflected in this legislation is that public health protection should be provided for the drinking water supply of all Americans. The Safe Drinking Water Act is a public health law. It establishes standards—maximum contaminant levels—which apply to water supplied by public drinking water systems. And it requires that public supplies be monitored periodically to assure that the standards are met.

But 25 million Americans relying on private wells or very small systems are not covered by the Safe Drinking Water Act. That is rural America we're talking about—excluded from the fundamental protections of Federal law. And because of the high cost of testing and treating individual wells, many of these Americans cannot afford—or defer for other priorities in the family budget—the expensive sampling and analysis necessary to assure that their water is safe.

There are some who do not believe there is a public health problem from ground water contamination. Recently the Environmental Protection Agency released a report called "Unfinished Business." This report presented a comparative assessment of 31 major health and environmental problems facing our country. The comparisons were based on the collective judgment of the senior managers and staff professionals across EPA.

The problems considered included depletion of the ozone layer, toxic air pollution, pesticide contamination of food, acid rain, non-point-source pollution of surface waters, and so on.

Based on the judgment of EPA's senior managers, problems associated with ground water contamination—hazardous waste dumps, leaking underground tanks, surface impoundments—were ranked as a very low concern among the 31 problems.

The problems ranked as a high priority among the Agency's professional staff are principally problems associated with high exposure, lots of people, although individual risks might be quite small. Exposure drives EPA's agenda. For instance, ozone depletion ranked high because 235 million Americans may be exposed to additional ultraviolet radiation—even though the risks of cancer or other ill effects to any one American are currently relatively low.

EPA's findings with respect to ground water contamination are just the reverse. Few people are currently exposed to ground water pollution. So even though the risks to some may be quite high—as they often are at Superfund sites—the problem ranks low among EPA's concerns. High risk to small numbers does not drive the agenda.

Well, you can see the bias in that judgment. It's not fair to rural America. Our system of government promises equal protection under the law. While we don't often think of that principle in this context, there is no justification for a Federal environmental agenda which takes action on a 1-in-10 million risk of cancer when that risk is faced by a large number of city folks, but will ignore cancer risks of 1 in 1,000 or 1 in 100 for Americans living in rural areas simply because they have few neighbors and drink from private wells. That's not right.

Most Americans, city and country, want these high-risk sources of ground water pollution corrected. That's why Congress has created Superfund and the RCRA and LUST programs. The judgment of the American people on this question is different from the judgment of the EPA professionals. We cannot accept a ground water protection program that establishes a strong, health-based standard for urban drinking water systems and some other, less protective regime for small towns. In fact, our program must be targeted for small town and rural America because it is these Americans who rely most often on ground water and who can least often afford the testing and treatment that assures a safe supply.

The fourth principle is that our prevention strategy should focus on controlling sources of contamination by requiring better technology or practices. Everybody agrees that prevention ought to be the focus of a comprehensive ground water protection program. But how to go about it?

The Environmental Protection Agency is putting together a classification scheme as the cornerstone of its protection strategy. It divides aquifers into three classes—offering extraordinary protection for the highly valuable, vulnerable supplies; a baseline of protection for most potential drinking water; and authorizing the degradation of some aquifers of low value. I don't think the Federal Government should be in the business of deciding what aquifers should be used as dumps. And as I indicated a few moments ago, even if there are only several score families in a small town using an aquifer, their drinking water supply deserves every bit as much protection as the water supplies of Long Island, Miami, and Spokane.

Others have suggested that ambient ground water quality standards should be at the heart of the prevention strategy. Under this approach, EPA would establish numerical health-based standards for the 200 chemical and other agents which threaten ground water quality. States would enforce these standards through ambient monitoring programs.

I have grave reservations about the role of standards in a ground water protection program. They are needed. They answer the question "how clean is clean?" They facilitate enforcement against polluters. But they are not preventive. If you are monitoring a contaminant in ground water, the release has already occurred. If it exceeds the standard, the damage is already done.

It can take years for a contaminant released on the surface to percolate through the soil and reach ground water. When it finally hits the water table and is captured by a groundwater monitor, it is too late for that information to be useful in shaping the activities and practices necessary to prevent contamination.

We have had experience with standards in other environmental programs, air toxics in the Clean Air Act, maximum contaminant levels in the Safe Drinking Water Act, food tolerances in the pesticide program. It's been a uniformly negative experience. Years are spent on the research. Few standards are set. When they are and they're tough enough, the user often switches to some other more potent poison not yet regulated. Chemistry is a revolutionary science; standard setting is often the first step toward petrification.

My efforts have been directed at a third approach to a prevention strategy, source controls. I believe that it would be most efficacious to require technology and practices that will directly reduce the threat of contamination from the sources that are of concern. Cathodic protection and leak detection for underground storage tanks. Best management practices for pesticide and fertilizer use. Liners and leachate collection systems for landfills. Spacing requirements for septic tanks.

These are source controls. They focus on the problems. They are easily defined. They work against the whole panoply of chemicals including those not yet invented. Where the control technology is not currently available, Government and private research programs can make a contribution. Those who follow the underground storage tank industry know there has been a revolution in technology: tank design, leak detection and computerized monitoring systems, all new technologies that have come into being in the few months that have passed since Congress established the LUST Program.

There is no doubt that classification has a role to play. It helps set priorities. Wellhead protection areas are a form of classification. Ground water quality standards may also be an element of the strategy for cleanup and enforcement. But prevention comes down to limiting or mitigating discharges from sources. And I believe control technologies and practices for the major sources of concern can be easily developed, widely employed, and extraordinarily effective.

The fifth and final principle that guided development of this legislation is that the first line of protection must be the agencies of State and local government and that Federal guidance or direction must leave room for considerable flexibility.

I am an advocate for a strong Federal role. The taxpayers of the Federal Government are now paying 80 percent of $1.5 billion a year to clean up ground water contamination. They need a prevention program, too. They can't afford more Superfund sites.

In the hearings I held around Minnesota, I heard again and again, "Leave the decisionmaking to us here at the State and local level. But keep sending the money." Well, if the Federal Government is expected to pay 90 cents of every dollar—that's the matching rate in Superfund, 90 cents on the dollar—in cleanup costs, it must insist that prevention be a primary theme in those State and local decisions.

There are, nevertheless, aspects of the ground-water resource which make a State and local emphasis necessary. The ground-water resource is not everywhere the same. Where the resource is found as an unconfined aquifer with the water table near the surface, wellhead protection areas make a lot of sense. Where the aquifer is deep and confined and the recharge area is miles from the wellfield, some other protection strategy might be more appropriate.

And the threats to the resource have a regional character, as well. Minnesota doesn't have an oil and gas production industry. Pesticides and nitrates are the big problem there. But oil and gas is the principal problem in Kansas, Oklahoma, and New Mexico. We have to make room in a national program for each problem to get priority attention where it is a priority problem.

My inclination to leave substantial responsibilities with State and local government was refreshed again with the six hearings in Minnesota. I have chaired many hearings in Washington on ground-water problems of the Nation. And I came to those forums last week thinking I had a pretty good grasp on the issues concerning Minnesotans. In my opening statement I focused on underground storage tanks and pesticides and hazardous waste. And the testimony from the 40 or so witnesses also touched on these threats.

But the largest concern identified by those hearings was one I had not previously encountered—the threat of abandoned or poorly constructed wells. At the hearing here in the Twin Cities the mayor of Goodhue, MN, showed a videotape of a journey through his, now contaminated, municipal well. It demonstrated that a lack of casing allowed polluted water from near the surface to cascade into the well carrying it deep into the aquifer.

Then we went to Lakeland where 85 families have lost private wells to contamination. It appears that a variety of sources may be implicated in the damage. But the news was that the State of Minnesota has been prohibiting these homeowners from drilling new wells into the deeper aquifer for fear that the wells would simply serve as a conduit to spread the pollution down to uncontaminated zones. Again

wells were part of the contamination problem.

At the Rochester hearing wells were called manmade sinkholes implying that in some respects all geology is like the geology of southeastern Minnesota, which is called karst. It has features which include natural sinkholes and underground channels that can cause rapid spread of contaminants. Well, in a sense we have made all of our geology karst geology because we have poked it full of holes, water wells, that allow rapid transport of pollutants.

They had thought about the abandoned well problem in Adrian, too. And they had a solution. Ask the township assessor to include a survey for abandoned wells as part of the normal assessment process.

When we got to St. Cloud the discussion of abandoned wells turned in a more troubling direction. We learned that they are frequently used as disposal pits for old machinery, pesticide containers and household garbage.

We heard estimates that there are tens of thousands of wells in some regions of the State. We also heard that it costs $1,200 to $2,000 to cap a well. If there are 2 million abandoned wells nationally—and that seems a low estimate to me—it would cost $3 to $4 billion to close out this potential source of contamination alone.

We have addressed the abandoned well problem as part of the broader ground-water protection effort which we are introducing today. This bill will require that all abandoned wells on a property must be plugged or capped before that property can be sold or title otherwise transferred. But I raise the abandoned well problem here today to illustrate that the national debate can never be fully informed as to all of the problems that people out here—people actually engaged in protecting the resource—can see.

There must be a strong role for State and local government in any ground-water protection program and there must be flexibility so that different priorities can be pursued in different parts of the Nation.

So, those are the five principles.

First, the program must focus on prevention.

Second, the resource should be broadly defined and all of it protected.

Third, public health protection should be provided for the drinking water of all Americans.

Fourth, controlling the sources of contamination through better technology and practices should be the strategy.

Fifth, State and local governments must be given a strong role and flexibility to set their own priorities.

Those are each fundamental issues. Issues that will be hotly contested as the national debate unfolds. We are starting with fundamentals.

Mr. President, I look forward to the coming weeks and months as this great institution turns its attention to the Nation's ground-water resources. I hope the bill we are introducing today will make some contribution to the discussion.

Mr. President, I would ask that a fact sheet on the bill and a summary of its major provisions be printed in the RECORD along with my remarks this afternoon.

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

GROUND WATER PROTECTION ACT—FACT SHEET

The bill:

Includes a non-degradation goal. The purpose of the Act is to "protect and enhance the physical, chemical and biological integrity of the Nation's ground water resources and to ensure that such resources are not degraded in any way."

Encourages States to develop programs to control discharges from sources of contaminants. The control requirements would be designed and implemented by the States based on guidance provided by EPA. The source controls would include minimum technology requirements and management practices to prevent contamination.

Covers a broad range of source categories. EPA would publish guidance documents for the control of: septic tanks and cesspools; surface impoundments; pesticide applications; landfills and wastepiles; aboveground storage tanks; some classes of injection wells; fertilizer applications; irrigation practices; wastewater collection and treatment; land treatment; storm water discharge; oil and gas exploration and production; mining; geothermal wells; abandoned wells; pipelines; bulk storage facilities; and feedlots. States would have up to 8 years to establish source controls for these categories and could defer work on those sources which are not of high concern in the State.

Requires discharge permits for sources not operating under an approved State program. The bill establishes a permit program like NPDES under the Clean Water Act. However, sources which are in compliance with approved State programs for their category need not apply for a permit. No permit is required for small septic tanks, pesticide applications or fertilizer use.

Imposes more stringent Federal requirements on new sources. EPA is to promulgate source control requirements using a "best practicable technology" standard for new sources starting operation after the requirements are promulgated. These requirements would be enforced by the states as part of their source control program.

Requires States to identify wellhead protection areas for public water systems. Wellhead protection areas encompass the land area immediately surrounding a water supply well or wellfield where contaminants percolating to ground water are likely to produce immediate injury. Inside the wellhead areas designated by the States, sources will be required to employ control technologies and practices reflecting a higher standard of protection—"best available technology." The BAT regulations for each source category would be written by EPA, but would only be triggered in areas designated by the States.

Encourages States to identify other "primary aquifer protection areas" for protection similar to that which would apply in wellhead areas. BAT requirements would again apply to sources operating in these areas of vulnerable hydrogeology, high water yield and disposal, underground injection and nuclear waste disposal would be banned in primary aquifer protection areas.

Authorizes grants to local ground water management districts to manage aquifers and protect water supply. The organizational structure for these management districts is flexible including local governments, nonprofits, regional planning agencies and soil and water conservation districts. The grants would be supported by $175 million in revenue generated by a $1.00 per ton tipping fee on solid waste disposal at sanitary landfills.

Includes a 10 million acre ground water protection reserve. This program based on the conservation reserve program of the Feed Security Act would allow farmers and ranches to contract with the Secretary of Agriculture to use less intensively lands located within wellhead protection or primary aquifer protection areas, thus reducing the application of pesticides and nutrients which can leach to ground water.

Includes new authorities for corrective action at sites of ground water contamination. This program is intended to address the sites that will never make the National Priorities List under the Superfund program and is to be administered by the States under cooperative agreements with EPA.

Provides funds for testing and treatment of contamination at private wells. 20 million Americans draw their water from private wells and thousands of small communities rely on substandard ground water supply systems. These Americans are not adequately protected by the Safe Drinking Water Act and other national programs. The bill establishes a $125 million per year program to support testing of private water supply wells and reconstruction or replacement of wells that show contamination. The funds are provided by a 2 cent per thousand gallon assessment on water sales by large systems.

Authorizes the promulgation of Federal ground water protection standards. Primary standards would be health-based and would provide a yardstick for measuring the effectiveness of source control programs. A one in one million risk standard is allowed for carcinogens. A default standard of 5 parts per billion applies to each contaminant until EPA takes formal action to set a standard. The bill also authorizes establishment of "correction" standards to guide remediation efforts which would be based on the application of best available remediation technology. The standards would be researched and proposed by an independent Ground Water Protection Standards Board which would also hear appeals on remedies selected for the corrective action program.

Authorizes the Geological Survey to undertake a national assessment of ground water quality. This provision is a principal feature of legislation which recently passed the House. The basic water resource research activities of the Geological Survey would also receive their first Congressional authorization under the bill.

Establishes research authorities at EPA and USDA, as well. The EPA program would focus on developing source control technologies effective in preventing contamination. EPA would also fund four ground water research institutes at universities across the Nation. USDA would focus on research to improve the efficiency and

thus reduce the volume of agriculture chemical applications.

Includes four new revenue measures. In addition to the solid waste disposal fee ($1.00 per ton) and water supply assessment (2 cents per thousand gallons), the bill includes a "waste end" tax imposed on the disposal of hazardous waste and an excise tax (2% of value) on pesticide and fertilizer products packaged and sold in small quantities for the lawn and garden market. The waste end tax is precisely the same as the tax which passed the House as a Superfund financing mechanism in 1985. The new revenues would provide all of the funds necessary to support the programs authorized by the bill.

Provides authorization: $250 million for State grants; $200 million for Federal programs; $100 million for research; $125 million for water well replacement; $50 million for corrective action; and $175 million in grants to local ground water management districts.

Reorganizes EPA's ground water protection efforts. The bill establishes an Office of Ground Water Protection to be headed by an assistant administrator and creates a government-wide coordinating committee to be chaired jointly by EPA and USGS.

Ground Water Protection Act: Major Provisions

GOALS AND POLICY

The principal goal of the Ground Water Protection Act (GWPA) is to protect the physical, chemical and biological integrity of the Nation's ground water resources to ensure that they are not degraded in any way. This is a non-degradation goal. It is similar to the goal contained in the Clean Water Act which protects surface water from pollution. This goal applies to all waters, whatever their current use.

Additional goals contained in the legislation are to: minimize the use and disposal of toxic chemicals; adequately map the ground water resources of each State; assist State and local government programs to protect ground water; provide health protection for private drinking water wells; and conserve ground water supplies.

Consistent with the non-degradation goal, it is the policy of the bill to provide a minimum level of protection for all ground water resources. This policy would specifically prohibit any Federal classification of ground water that would lower the level of protection afforded by current law. The Environmental Protection Agency has been developing a ground water classification system and is expected to issue guidance on the use of that classification system in regulatory decisions in the next few months. That guidance would be explicitly overturned by this legislation.

In addition, the bill would encourage broad flexibility for States implementing ground water protection programs and would provide that States might set more stringent standards than would result from adoption of the Ground Water Protection Act. Nothing in the legislation would disrupt water appropriations policies or water appropriation decisions made by the States. All Federal agencies with jurisdiction over potential sources of ground water contamination would be required to abide by State and local government standards, regulations and requirements.

PREVENTION

The Ground Water Protection Act would use a series of strategies to protect ground water resources from potential contamination. These strategies combine various regulatory approaches—control technology, best management practices, special protection areas, and standards—at both the Federal and State level in the programs that are intended to provide each State with flexibility to tailor tools to the ground water contamination problems found in that State.

SOURCE CONTROLS

Part C of the Ground Water Protection Act establishes programs to prevent ground water contamination by requiring the use technology and management practices at sources of contamination to control or treat discharges so that they will not be harmful to water supplies.

These requirements will apply to categories of sources including: septic tanks and cesspools; landfills and wastepiles; surface impoundments; injection wells; pesticide applications; wastewater collection and treatment systems; aboveground storage tanks; fertilizer applications; irrigation practices; oil and gas production; mining; abandoned wells; bulk storage facilities; and so on.

Requirements might include methods or techniques for location; design; installation; operations; operator training; maintenance; leak detection; ground water monitoring; record keeping; corrective action; closure and financial responsibility. Requirements would vary according to the source category. Well-designed underground tanks are coated with non-corrosive materials; landfills are lined; injection wells are cased.

Existing sources in these categories would be subject to regulations developed by the States reflecting technologies and practices which are readily available. EPA would write a guidance document for each category, but there would be no Federal regulatory requirement. States would address their own highest priority categories first and would have eight years to complete source control programs for all categories.

New sources would be subject to a second set of requirements written by EPA. These requirements would reflect "best practicable technology" (BPT). EPA's new source requirements would be enforced by the States along with their requirements for existing sources.

Sources located in highly sensitive areas—next to drinking water wells in wellhead protection areas, for instance—would be subject to EPA requirements for installation of "best available technology" (BAT) and the use of "best management practices" (BMPs). In addition to wellhead protection areas established by the 1986 amendments to the Safe Drinking Water Act, BAT requirements would also apply within "primary aquifer protection areas" designated by the States to protect special ground water resources.

Underground storage tanks may be used as an example to illustrate the varying levels of control. At existing tanks practicable technology might require that each tank be tested using a so-called "tightness" test to determine whether it is leaking. BPT requirements applied to new tanks may include cathodic protection or coating with non-corrosive materials to prevent leaks. Underground tanks in sensitive areas might be required to be double-walled with monitoring for leaks between the walls as part of a BAT requirement.

Sources in States which choose not to develop control programs for that type of source would be required to apply for a Federal permit similar to the permits granted under the Clean Water Act (so-called NPDES permits) for discharge to surface waters. But if the source was operating in a State with an approved program and was in compliance with the requirements of that program, no permit would be required. No permit would be required for small septic tanks, pesticide applications or fertilizer use.

Inside wellhead protection and primary aquifer protection areas, farmers and ranchers would qualify for participation in a "ground water protection reserve" program modeled on the conservation reserve for highly erodible land under the Food Security Act. Rental payments and other contract support would be provided by the Department of Agriculture to farmers and ranchers who shift land in sensitive areas to less intensive use and thus eliminate the need for pesticide and fertilizer applications which may leach to ground water and move to water supply wells.

GROUND WATER PROTECTION STANDARDS

The Ground Water Protection Act would establish a series of new, numerical standards for chemical and biological contaminants which may be found in ground water supplies. These standards would be promulgated by EPA, but only after health and environmental research was conducted to determine the effects of the contaminants and proposed standards were recommended by an independent Ground Water Protection Standards Board established by the bill. The Board would have five members with a chairperson appointed by the President and approved by the Senate.

There would be two principal sets of standards. "Primary" standards would be health-based, set at a level which would be expected to cause no adverse effect to the health of persons. The primary standard is comparable to the maximum contaminant level goal (MCLG) of the Safe Drinking Water Act. Unlike SDWA, in this case, EPA could set a non-zero standard for contaminants that are classified as cancer-causing agents. The primary standard for carcinogens could be set at a level which would not be expected to cause more than one excess cancer death for every one million persons exposed to the contaminant at the level over an entire lifetime.

There would be an absolute limit on synthetic organic chemicals in ground water supplies as the bill establishes a statutory, primary standard of 50 parts per billion for the total concentration of such chemicals. Until such time as a standard was actually promulgated by EPA for a particular chemical, a "default" standard of 5 parts per billion would apply for that individual chemical, as well. In a recent rule-making, EPA set 5 parts per billion as the enforceable drinking water standard or MCL for benzene and two other chemical solvents.

The primary standard would not function as an "ambient" standard. The prevention measures in the bill use technology and management practices rather than ambient standards as the principal means to prevent contamination. This reflects the special character of ground water which does not mix thoroughly like air or surface water; pollutants stay concentrated in plumes, rather than dispersing to "ambient" levels. Ambient standards are, as a result, inappropriate for ground water protection.

The primary standard does, however, function as a yardstick to judge whether a State's control program for a category of sources is working. Every four years, the State is to conduct monitoring within the vi-

cinity of a representative sample of sources in the category to determine whether the primary standard is being exceeded. To the extent that violations of the primary standard are widespread, the State is to tighten the technology and practice requirements for that category to prevent contamination.

The GWPA would also authorize promulgation of numerical "correction" standards to be used in a cleanup program. The correction standards for a contaminant would reflect the cleanup level that could be achieved with the best treatment and remediation technologies. Again, the standard would be recommended by the Board and promulgated by the Administrator. Where a discharge caused an exceedance of the correction standard, the owner or operator of the source would be required to conduct a cleanup effort until the standard was met. EPA could waive the standard in cases where complex hydrogeology or other factors technically prevent cleanup to the standard.

When a contaminant is found in ground water at three or more locations in the United States it must be listed as a contaminant by EPA. The Board then proposes a health and environmental effects research program for the contaminant. To the extent that there are identified gaps in the existing health and environmental effects data, the manufacturer of the substance would be required to conduct research to fill the gaps. The Board would consider the data when complete and would then recommend primary and correction standards to EPA for promulgation.

The Board may also hear appeals in cases where persons adversely affected by a discharge believe that the remediation program selected by EPA or a State will not meet the correction standard. The Board may set aside the EPA chosen corrective action measure and require the agency to select a more stringent remedy.

SPECIAL PROTECTION AREAS

The Safe Drinking Water Act amendments of 1986 established two new ground water programs. States were authorized to identify "wellhead protection areas" or the land surface areas immediately around a public drinking water well where the pumping action of the well would pull contaminants released on the surface into the drinking water supply. These wellhead areas vary in size from one or two to several hundred acres with the average area being about 120 acres. There are 38,000 communities with drinking water wells or wellfields and the wellhead areas associated with these facilities may include about 0.5 percent of the land area of the United States.

A second program authorized demonstration grants for the protection of sole source aquifers—larger land areas where many small communities or individual households rely on an aquifer as the principal source of water supply. The Ground Water Protection Act builds on these two programs.

A four-year schedule for identifying wellhead areas and conducting an inventory of the potential sources of contamination within each area is established. In addition, States are invited to identify "primary aquifer protection areas" essentially any area with a highly valuable or vulnerable aquifer for which the State seeks special protection. The primary aquifer protection areas would be larger than wellhead areas, would include areas with primarily private wells, and would not be limited to areas which had no other ready source of water supply (as is the case with sole source aquifers).

The boundaries of these two types of special protection areas would be designated by the State. Once designated, Federal regulations requiring the use of best available technology and best management practices would be applicable to sources located in the area. In addition, hazardous waste disposal facilities, injection wells and radioactive waste disposal facilities would be banned. Existing facilities would have to upgrade to meet the new BAT requirements or close.

Best available control technology would generally include secondary containment for product storage systems, leachate collection and treatment for systems with intentional discharges and continuous leak detection and monitoring systems to immediately identify hazardous discharges.

A "ground water protection reserve" program would also be available in these special protection areas. It would be run by the Department of Agriculture. It would have a set aside goal of 10 million acres to be implemented over a five-year period beginning in 1990. Farmers and ranchers with land inside these designated protection areas would be paid under contract to switch from intensive agricultural practices which rely on high inputs of pesticides and fertilizers to other uses of the land with low inputs. Rules would be similar to those for the existing conservation reserve program which has signed up 23 million acres of highly erodible land in conservation programs.

GROUND WATER MANAGEMENT DISTRICTS

The bill authorizes grants to establish local ground water management districts to conduct the programs for wellhead protection and primary aquifer protection areas. These districts may be managed by local units of government, but the States are encouraged to provide for the creation of new, special purpose organizations with boundaries coincident with the aquifer protection areas defined by hydrogeologic studies. If special purpose districts are created, they would have governing boards elected at annual meetings; they would develop comprehensive plans for protecting the ground water of the district; they could propose rules and regulations which would be adopted by the States; they could impose water users fees and issue permits for sources of contamination; they could conduct waste recycling and septic maintenance programs; and they could sue the owners of polluting sources for enforcement of their rules.

The districts would be supported by grants from the Federal government. GWPA includes a new solid waste disposal tax of $1.00 per ton. The revenues from this new tax would be approximately $175 million per year which would be placed in a trust fund and spent only for the purpose of supporting these local ground water protection organizations. The current average tipping fee for solid waste disposal is approximately $27.00 ton, so the tax would represent less than a 5-percent surcharge.

DETECTION

The Ground Water Protection Act contains several provisions with respect to the detection of ground water contaminants and the assessment of ground water quality across the Nation. The United States Geological Survey would be given authority to conduct an ongoing survey of ground water to determine its overall quality and to identify specific problems of concern. This program would be in addition to authorizations for the existing Federal-State cooperative program and the Regional Aquifer System Analysis which provide data on the quantity and quality of ground water in specific regions. These programs and the basic water resources research authority of the Geological Survey have never before been authorized by Congress, although annual appropriations have been made.

Each State would be required to complete comprehensive aquifer mapping for the ground water resources within its borders. This resource characterization, including identification of the principal sources of contaminants and ground water withdrawals, would form the foundation for State ground water protection strategies supported by the bill.

Each State which receives a Federal grant under this legislation will be required to implement a licensing program for water well drillers operating in that State. This program would collect information on each new water well drilled and integrate that data into a national computer network on ground water quality and supply. Each new well would be tested for quality before it could be put in service and wells drawing contaminated water would be closed and capped immediately.

The bill also addresses the problem of abandoned production and injection wells. Some estimates indicate that there are as many as 2 million abandoned wells across the country. These wells serve as conduits for the rapid movement of pollutants from the surface and from one aquifer to another and are a major problem in rural areas. Many abandoned wells have been used as dump sites for household wastes and farm refuse including discarded pesticide containers. The bill requires that each property be surveyed before it is sold or otherwise transferred to locate all production and injection wells on the property. Wells currently used for drinking water would be tested and the results would be supplied to the prospective buyer of the property and to the State. Abandoned wells would have to be plugged before the property could be sold.

EPA is authorized to conduct national surveys with respect to various source categories to determine the effect of such sources on ground water quality and the measures that may be effective in preventing contamination with respect to sources in the category. Currently EPA is conducting such a survey for pesticide contamination. Under GWPA, it would also survey impacts of septic tanks, landfills, shallow injection and drainage wells, fertilizer applications, irrigation return flows and publicly-owned wastewater treatment works.

EPA and the States are to jointly establish a listing of water supply wells which have been abandoned because of contamination or which require treatment to remove contaminants. This inventory will aid in the identification of priorities for control programs and will also serve as a tool to assist in the identification of regions where contamination is extensive or increasing.

The bill establishes authority to require monitoring by the owners and operators of sources or potential sources of contamination. This monitoring may include leak detection systems; monitoring the unsaturated zone for contaminants before they reach ground water; monitoring at a representative number of sites where a product or technology is employed to determine its effect on ground water quality at the earliest possible date; conducting national exposure assessments and assessing the extent of contamination caused by a facility which is known to have leaked or spilled contami-

nants that threaten ground water and require corrective action.

CORRECTION

The GWPA establishes new corrective action authorities and procedures with respect to ground water contamination. These authorities provide for greater involvement of States in cleanup; tie corrective action to explicit ground water cleanup standards; and provide a program for water well replacement for households and small communities.

The new cleanup standards are to be proposed by an independent Ground Water Protection Standards Board. The standards will serve as objective criteria to answer the question, "how clean is clean?" The standards will reflect the level of cleanup—either as a numerical concentration or as a percentage reduction—which can be accomplished through application of the best available treatment and remediation technology. It is important that these standards be set by a process independent from the cleanup decision at any specific site so that the public might have confidence that cleanup decisions are not hindered by a reluctance to use the Superfund resources or force expensive cleanups on private parties. Current law too often finds existing legal standards inapplicable and results in ad hoc decisions which invite controversy.

Corrective action under GWPA is phased to reflect the level of contamination experienced at a site. When contamination is suspected it must be reported to EPA or the State. When the contamination exceeds 50 percent of the primary, health-based standard the owner or operator of the source must develop a plan including modifications of operations at the source which will prevent the standard from being exceeded.

If contamination reaches a level above 100 percent of the primary standard, the source will generally be shut down until contamination can be corrected. Persons relying on the water for household needs will be provided with alternative supplies. At this point, the owner of the source will also be required to take steps to contain the contamination so that it does not spread to uncontaminated portions of the water supply.

When the contamination is more serious, reaching levels above the correction standard, remedial actions must be taken. The owner or operator of the source will develop a plan for remediation to meet the correction standard and after the plan is approved will conduct the cleanup. As with Superfund, permanent remedies which employ treatment or other measures to reduce the toxicity and volume of the contaminated material are preferred.

A major difference between the corrective action authorities established here and the Superfund program is the expectation that cleanup under GWPA will be directed by the States rather than EPA. The provisions of this corrective action program do not apply to sites listed on the Superfund National Priorities List. A small fund—like the oil spill response fund which currently exists under the Clean Water Act—is established to finance cleanups where no owner or operator capable of conducting the cleanup can be found.

RESEARCH

The GWPA authorizes a new research and development program on ground water contamination problems to be conducted by the Environmental Protection Agency. Their are also roles for the Geological Survey and the Department of Agriculture.

The EPA program would be coordinated through a media-specific ground water research committee which would integrate the ground water interests of the various offices at EPA including offices for water, drinking water, solid waste and emergency response. The committee would prepare an annual research plan which would match upcoming ground water policy decisions with available information to anticipate research needs.

EPA would be authorized to conduct a research program to demonstrate new control technologies for various categories of potential sources of contamination. Each year EPA would finance at least 10 demonstrations, the results of which would be broadly available through programs of technical assistance and technology transfer.

The legislation authorizes EPA to establish four university-based ground water research institutes. The institutes would conduct general programs in the ground water sciences and train individuals, interested in careers related to ground water protection.

The USDA research program to be managed by the Agricultural Research Service would focus on more efficient uses of agricultural chemicals and non-chemical solutions to production problems.

Similar authorities are established by S. 1105, a ground water research bill which was introduced by Senators Burdick and Durenberger earlier in this Congress.

ORGANIZATION

EPA's new responsibilities would be carried out by the Office of Ground Water Protection which would be headed by an assistant administrator for ground water. Currently the office is under the assistant administrator for water who also supervises implementation of the Clean Water Act and the Safe Drinking Water Act.

The President would be authorized to create an interagency committee to coordinate the ground water protection activities of all the Federal agencies and to report on the legislative and administrative changes necessary to avoid duplication of efforts and maximize the value of various Federal programs. The interagency committee would be chaired jointly by EPA and the Department of Interior. In addition, EPA would establish a ground water protection advisory committee with representation from State and local governments and from citizen and industrial councils with expertise in ground water management and protection.

The independent Ground Water Protection Standards Board would be housed in EPA, but would not be answerable to any other agency of the executive branch for its proposed standards and research programs. The chairperson would be appointed by the President and approved by the Senate. The other four members would be chosen by the Administrator and might include Federal officials with ground water protection responsibilities at EPA or other agencies or may be persons working in State or local government or in the private sector. In addition to recommending standards, the Board would also hear appeals on corrective action decisions.

FUNDING

The activities authorized in the Ground Water Protection Act are supported by four new revenue sources: a hazardous waste disposal tax; a solid waste disposal tax; a water supply assessment; and an excise tax on pesticides sold in the lawn garden market (non-agricultural pesticides).

The hazardous waste disposal tax, also called a waste-end tax, is precisely, the same tax which was adopted by the House of Representatives in 1985 to finance expansion of the Superfund program. It imposes a tax which begins at $27.00 per ton in 1989 and is gradually increased and which will apply to the disposal of hazardous waste at licensed facilities. The tax supports the general program expenditures under GWPA including grants to the States to run their programs. This tax is expected to generate $400 million per year in revenues.

The solid waste tax is a $1.00 per ton tipping fee on the disposal of household and commercial waste. All of the revenue would be placed in a Community Water Supply Management Trust Fund and would be used to support grants to local ground water management districts. The tax would raise approximately $175 million per year.

The water supply assessment would be 2 cents per one thousand gallons. It would be paid by large water supply systems with more than 500 service connections (hookups). The average price for water today is $1.27 per thousand gallons, so the fee would represent only a very small increase in price. The revenue would be placed in a Water Well Replacement Trust Fund which could only be used to test, treat, repair and replace water wells which had been lost to contamination and which were owned by private households or small communities. These Federal dollars—approximately $125 million per year—would be matched by State funds and private dollars.

The pesticide and fertilizer excise tax would be 2% of the retail value of pesticides sold in small quantities for use on gardens and lawns. It would not apply to agricultural chemicals. The revenues generated would be used to supoprt the general program authorized by this legislation and would be about $200 million per year.

The largest portion of expenditures under this legislation will be in grants to State and local governments to conduct ground water protection programs. $250 million per year is allocated for grants to the States. $175 million is provided for grants to the local ground water management districts. $125 million is distributed from the Water Well Replacement Fund to States which have eligible programs. $50 million per year is allocated to the revolving fund for corrective action, again principally a State function under this legislation.

The new research authorities, including those of the USDA and USGS, receive funding of approximately $100 million per year. And the remainder of the authorized spending, approximately $200 million per year, is allocated to the Environmental Protection Agency for the development of standards, supervision of permits and State programs, and compliance monitoring and enforcement activities.

By Mr. HEFLIN (for himself, Mr. SHELBY, and Mr. HELMS):

S. 2093. A bill to urge negotiations with the Government of France for the recovery and return to the United States of the C.S.S. Alabama; referred to the Committee on Foreign Relations.

THE C.S.S. "ALABAMA"

Mr. HEFLIN. Mr. President, I rise today to introduce a bill which seeks to preserve a valuable part of American history.

On August 24, 1862, Capt. Raphael Semmes, commissioned the Confeder-

ate States Steamer, the C.S.S. *Alabama,* under the direct orders of Jefferson Davis, President of the Confederacy. During the next 2 years, the C.S.S. *Alabama* acquired the reputation as the most feared of all Confederate warships. She captured and burned 55 Union merchant ships and she bonded 10 others.

No other Confederate raider matched her record which is detailed in the reports of Commander Semmes to the Secretary of the Navy. In one of these such reports, Commander Semmes recounted his battle with the U.S.S. *Hatteras* which he describes in the following words:

> We now hailed in turn to know who the enemy was, and when we had received the reply that he was the U.S.S. Hatteras we again hailed him and informed him that we were the C.S.S. Alabama, and at the same time I directed the first lieutenant to open fire upon him. Our fire was promptly returned, and a brisk action ensued, which lasted, however, only thirteen minutes, as at the end of that time the enemy fired an off gun and showed a light, and upon being hailed by us to know if he had surrendered, he replied that he had and that he was in a sinking condition. I immediately dispatched boats to his assistance, and had just time to remove the crew when the ship went down . . . We received a few shot holes from the enemy, doing no material damage. The enemy's steamer Brooklyn and another steamer steamed out in pursuit of us soon after the action commenced, but missed us in the darkness of the night.

Many were the times that the C.S.S. *Alabama* destroyed another ship and then disappeared into the darkness of the night without sustaining any significant damage. Along with the report of the battle with the U.S.S. *Hatteras,* Commander Semmes included a list of the enemy's ships which he had burned, bonded, and destroyed. The total value of vessels which the C.S.S. *Alabama* had disposed of as of May 1863 was $3,100,000. The total number of prisoners paroled as of that date was 795. During the short period from January 25 to May 10, 1863, the C.S.S. *Alabama* captured, burned, or bonded a total of 20 vessels.

The C.S.S. *Alabama's* illustrious record was arrested, however, on June 19, 1864 in the naval battle of Cherbourg, one of the most dramatic events of the War Between the States.

After many exhausting months at sea, Capt. Raphael Semmes planned to relinquish command of the C.S.S. *Alabama* at Cherbourg Harbor in France and have the ship's hull, rigging and engines overhauled. But, on June 14, 1864, before Semmes could obtain the permission necessary to dry dock his ship, the U.S.S. *Kearsarge* steamed into the harbor.

Although Executive Officer John McIntosh Kell cautioned Semmes that, at target practice in the spring, two out of every three of the ship's fuses had been inoperative due to defective powder, Semmes' brave and aggressive spirit dominated. He was determined to fight the *Kearsarge.* During the 3 days of intense preparation for the battle, Semmes felt confident in his crew and in his ship. He expressed this sentiment in his journal where he wrote:

> My crew seems to be in the right spirit, a quiet spirit of determination pervading both officers and men. The combat will no doubt be contested and obstinate, but the two ships are so equally matched that I do not feel at liberty to decline it.

On Sunday, June 19, 1864, a reported 17,000 spectators gathered on the French coast to witness the confrontation. Dozens of yachts and small craft followed as the band on a French warship played "Dixie." One of these spectators was the wealthy Englishman John Lancaster who was aboard his private yacht, the *Deerhound.* Also watching the contest from a private boat was the famed artist Edouard Manet.

After the *Alabama* chased the *Kearsarge* 7 miles out to sea, the *Kearsarge* turned around and headed for the *Alabama.* The *Alabama* discharged the first shot, which went too high. The *Alabama* then fired two more shots which were also too high. The *Kearsarge's* first shot struck the *Alabama* near her forward port and was followed by a full broadside to the *Alabama.*

The ships were then forced into a circular track traveling at full steam, moving in opposite directions and each fighting her starboard side. They made seven complete circles before the end of the action, gradually lessening the distance between them. The conflict continued with the *Alabama* firing at least two shots for every one fired by the *Kearsarge.* However, the *Alabama* generally fired too high.

With the action continuous on both sides, an 11-inch shell careened through the *Alabama's* gun port and wiped out "Like a sponge from a blackboard one-half of the gun's crew." A second shell did further damage and when a third shell struck the breast of the gun carriage and spun around on deck without exploding, a compressor man quickly picked it up and threw it overboard.

After about 20 minutes of fighting, a shell from the *Alabama* struck the hull of the *Kearsage.* The crew onboard the *Alabama* cheered wildly, believing that this shot had crippled the *Kearsage,* before they realized that no damage had been done. Semmes was stunned by disbelief. Not knowing that the *Kearsage* was protected by chains slung over her sides and then covered by wooden planks, he and his men continued to hope for the one shot which would disable the *Kearsage.* That shot never came.

From the horse block, the highest point on the deck of the ship, Semmes observed the damage done to his ship by the enemy's fire. He was astonished by the accuracy of the enemy's guns and offered a reward to any gun crew that could silence the guns which were damaging his ship and crew.

On shore, Captain Sinclair recognized part of the problem—the powder smoke of the *Kearsage* was light, in contrast to "puffs of heavy steam" from the *Alabama* which indicated damaged powder. Even a 100-pound shell which lodged in the rudderpost of the *Kearsage* failed to explode—the failure due apparently to faulty powder.

Of the 370 shots they fired at the *Kearsage,* only 28 hit their target and those shots caused only minor damage.

There were no casualties and only three Union sailors were wounded.

The *Alabama,* on the other hand, suffered substantial damage. The rudder was damaged and steering was difficult. An 11-inch shell barreled through the *Alabama's* starboard side and emanated from her port side, leaving huge, gaping holes. A coal bunker collapsed and with only two boilers then working, the *Alabama* steamed ahead at greatly reduced speed. The *Alabama* now leaned heavily to starboard, filled with holes, smoke and seawater—but, in spirit and tradition of men and women of the South, Semmes kept on fighting.

The story of this battle is long and told well by Dr. Norman C. Delany, author of the book, "John McIntosh Kell of the Raider Alabama":

> [Semmes] believed that by shifting the weight of his battery from starboard to port he might raise the shot holes above the water line. The ship was now five miles from the coast and with luck might make the three-mile limit. He gave the order: "Mr. Kell, as soon as our head points to the French coast, . . . shift your guns to port and make all sail for the coast."
>
> Then Kell appeared at the skylight above the engine room and shouted to the men below, "Put on steam!" Engineers William Brooks and Matt O'Brien, covered with sweat and coal dust, answered that the Alabama carried all the steam it could manage without blowing up. Then reconsidering O'Brien declared: "Let her have the steam; we had better blow her to hell than to let the Yankees whip us!" But it would have taken more than a few extra pounds of steam pressure to save the Alabama. Winslow had anticipated Semmes' intentions and steamed across his adversary's bow.
>
> Exhausted officers and sailors continued fighting from the post side, but with water rushing into the gangway at every roll, they felt that "the day was lost." O'Brien came on deck to report that the rapidly rising water was almost flush with the furnace fires * * * Semmes listened in silence, then ordered: "Return to your duty!" The engineers felt certain that they would go down with the ship.
>
> Semmes ordered Kell to determine how long the ship could remain afloat. Going below, Kell observed holes in the hull "large enough to admit a wheelbarrow." Kell returned to the deck and reported that the

ship could not last for more than ten minutes. Semmes gave the order: "Then, sir, cease firing, shorten sail, and haul down the colors; it will never do in this nineteenth century for us to go down, and the decks covered with our gallant wounded." As there was no white flag available, a man on the spanker boom held up a makeshift one. Winslow, unconvinced that his enemy had surrendered, cried out: "Give it to them again, boys; they are playing us a trick!" Each of his gun captains obeyed instantly, firing five volleys into the Alabama. * * * Aboard the doomed raider, Kell cried out: "Stand to your quarters, men. If we must be sunk after our colors are down, we will go to the bottom with every man at his post!" But when the white flag was again raised on the spanker boom, all firing ceased. Semmes then ordered Kell, "Dispatch an officer to the Kearsarge and ask that they send boats to save our wounded—ours are disabled."

Aboard the sinking vessel Kell gave the order to abandon ship and directed the men to find a spar or whatever else might assist them in keeping them afloat. Semmes, still wearing his cap, trousers, and vest, grabbed a life preserver, discarded his sword and began to swim.

Later, Executive Officer Kell remembered looking back for his last view of the *Alabama*:

As the gallant vessel, the most beautiful I ever beheld, plunged down to her grave, I had it on my tongue to call the men who were struggling in the water to give three cheers for her, but the dead that were floating around me and the sadness I felt at parting with the noble ship that had been my home so long deterred me.

Many survivors were picked up by the *Kearsarge* and taken prisoner; however, Semmes, along with some other crew members, was rescued by the private yacht, the *Deerhound*. As the *Alabama* sank stern first, the *Deerhound* was observed to be "stealing away." Guns were turned toward her but *Kearsarge* Captain Winslow ordered his men not to fire. The *Deerhound* steamed toward England and thus Semmes escaped. In 1865, Semmes returned to the Confederacy where he continued fighting until the war's end. After the war, he returned to Mobile where he practiced law until his death in 1877.

The C.S.S. *Alabama*, which sank in what were then high seas, was located within the French territorial waters by a French minesweeper in 1984. Appropriately, efforts are underway in the United States to salvage the ship and her artifacts in order that they may be displayed in the State of Alabama for the historic enrichment of all Americans.

Some problems have arisen with this plan in that the French and the British are seeking to salvage the ship and display it in their own countries. They argue that this ship, which the United States paid for in both Confederate money and lives, is foreign property.

This position is not held by the U.S. Department of State which sent a message to France in September 1987, stating that:

The United States considers that the C.S.S. *Alabama* and her associated artifacts constitute property, title to which is vested in the United States.

This bill allows Congress to reaffirm the State Department's position, that title to the C.S.S. *Alabama* and her artifacts is vested in and has never been abandoned by the United States. I enlist the support of my colleagues to see that this ship which occupies such an important place in U.S. naval and maritime history is returned to her mother country where she belongs.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2093

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Preservation of the C.S.S. Alabama Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the C.S.S. Alabama is an American war vessel that was commissioned August 24, 1862, by Captain Raphael Semmes under the direct orders of Jefferson Davis, President of the Confederacy;

(2) On June 19, 1864, after an hour and ten minutes of intense combat with the U.S.S. Kearsarge off the coast of France, the C.S.S. Alabama sank in waters which were then high seas but which are now territorial seas of France;

(3) title to the C.S.S. Alabama and her artifacts is vested in and has never been abandoned by the United States;

(4) the C.S.S. Alabama is an important part of American history and culture; and

(5) as expressed in a letter from the State Department to the Government of France, "the United States considers that the C.S.S. Alabama and her associated artifacts constitute property, title to which is vested in the United States Government. As the United States Government never abandoned title thereto, the United States respectfully requests that the Government of France ensure that no salvage operations or any other activity is approved or undertaken to raise the vessel or any of her artifacts without the prior approval of the United States.".

SEC. 3. DEFINITIONS.

For the purpose of this Act, the term "C.S.S. Alabama" means the shipwrecked vessel C.S.S. Alabama and her cargo and associated artifacts, including those items which are scattered on the ocean floor in her vicinity.

SEC. 4. POLICY.

It is the sense of the Congress that—

(1) the C.S.S. Alabama and her artifacts should, insofar as possible, be preserved for the benefit of the citizens of the United States;

(2) the C.S.S. Alabama and her artifacts should be displayed in the State of her name; and

(3) the Secretary of State, in consultation with the National Institute of Archaeology and the Save the Alabama Committee, Incorporated, should enter into negotiations with the Government of France to ensure the recovery and return to the United States of the C.S.S. Alabama.

SEC. 5. REPORTING REQUIREMENTS.

Sixty days after the date of enactment of this Act, and every 30 days thereafter, the Secretary of State shall prepare and transmit to the Speaker of the House of Representatives, the Committee on Foreign Relations of the Senate, and each of the two Senators representing Alabama a written report discussing the status of the negotiations described in section 4(3).

Mr. SHELBY. Mr. President, today I am pleased to join two of my distinguished colleagues, the senior Senators from Alabama and North Carolina, Mr. HEFLIN and Mr. HELMS, in introducing legislation that urges the Secretary of State to enter into negotiations with the Government of France to ensure the recovery and return to the United States of the C.S.S. *Alabama*. Once dispossessed of remnants of history, those same artifacts are often lost forever. I believe it is incumbent upon each one of us to attempt to preserve as much of our heritage as possible. The tale of the wreckage of the C.S.S. *Alabama* serves as another example of American history under seige.

The naval battles that occurred during the War Between the States provided many of the more interesting battle spectacles in history and, in fact, that period represented one of the more intriguing intervals in our naval defense development. Battles such as that between the *Monitor* and the *Merrimac* managed to capsule the conflict itself. The final battle of the C.S.S. *Alabama* was one of those great naval battles. After roaming the seas at will intimidating and destroying Union ships encountered for almost 2 years, the C.S.S. *Alabama* more than met its match in the U.S.S. *Kearsarge* on June 11, 1864, off the shores of France. The *Kearsarge* sunk the *Alabama* leaving it to a watery grave for over 120 years.

After being discovered in 1985 in French territorial waters, a controversy has developed over who is the owner of the remains of the warship. While conflicting claims exist, I am of the opinion that the Secretary of State should pursue in the most diplomatic manner possible the salvage and return of the C.S.S. *Alabama* to the United States. Our legislation attempts to accomplish just that. I look forward to working with Senators HEFLIN and HELMS toward the expeditious passage of this bill.

By Mr. KERRY:

S. 2094. A bill to amend title XVI of the Social Security Act to provide that the existing requirement for deeming a parent's income and resources to his or her children under age 18 shall not apply in the case certain severely disabled children, and for other purposes; referred to the Committee on Finance.

THE KAILEIGH MULLIGAN SSI REFORM ACT

● Mr. KERRY. Mr. President, no one would argue that children are one of our most precious resources and that as a nation, we should strive to encourage and strengthen family unity. I rise today to introduce legislation to overturn one aspect of the Supplemental Security Income [SSI] Program which has, on far to many occasions, served to unnecessarily separate severely disabled children from parents who are willing and able to care for their child at home.

Under current law, in certain cases disabled children are entitled to SSI benefits and therefore also eligible for Medicaid. However if the child's parent's income is above $13,260, this income is deemed to the child, who then loses his or her SSI benefits and unless granted a waiver by the State also loses Medicaid eligibility. On the other hand should the child stay in an institutional setting, they will receive total SSI and Medicaid benefits.

This legislation would require that the income deeming rules be waived for severely disabled children entitling them to SSI and Medicaid benefits regardless of their parents income. The children I am referring to are the individuals who are so disabled that they are eligible for institutional care, but who could receive the same level of care at home.

Far too often, despite the ability and desire of parents to care for their disabled child at home, they are unable to pay the prohibitive medical costs, even when home care can save the State and Federal Government a considerable sum of money. But this is not what is at stake here. What is at stake is the quality of life of the individual and family. The best way this can be demonstrated is through example.

Kaileigh Mulligan is a 2-year-old from my home State of Massachusetts. She has Down's syndrome and requires frequent hospitalization and constant care. The easy alternative for her parents would be to keep Kaileigh in the hospital and let others care for her. But, although Kaileigh requires a lot of attention, her parents would rather raise and care for her at home in a loving and secure environment.

Yet the way current law reads, keeping Kaileigh at home means that the income of her parents is deemed to be Kaileigh's and therefore she loses her eligibility for Medicaid and for SSI. What is important to note is that Kaileigh would have been fully entitled to these benefits if she were to be permanently hospitalized.

In Kaileigh's case the State of Massachusetts has granted a waiver from the income deeming rules so that she could remain at home and still be eligible for Medicaid. However, Federal law still prohibited Kaileigh from receiving SSI benefits, which for her would amount to $1,200 a year. These funds would primarily be used for buying supplies such as feeding tubes, which Kaileigh needs to function from day to day.

Modifying SSI eligibility is not only a morally and socially sound approach, but it is also extremely cost-efficient. The Massachusetts Office of Human Services recently estimated that it costs anywhere from $48,000 to $405,000 to care for a child like Kaileigh in a hospital. This cost would be drastically reduced with home care. But more importantly the direct social benefits to the children and their families are undeniable.

It is time to act and remove the perverse incentive that exists for children to remain in institutions rather than at home with families. The decision to care for a child at home is a tough one and should not be based on whether it will jeopardize benefits. It should be based on the willingness and ability of the family to provide quality care and whether or not it is in the best interest of the family.

I urge my colleagues to join me in supporting this important legislation which gives us an opportunity to reconcile Government policies with the needs of the family and 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. 2094

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

SECTION 1. PARENTS' INCOME AND RESOURCES NOT TO BE DEEMED TO CERTAIN SEVERELY DISABLED CHILDREN.

(a) IN GENERAL.—Section 1614(f)(2) of the Social Security Act is amended—

(1) by striking "For purposes of determining" and inserting "(A) Subject to paragraph (B), for purposes of determining"; and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply in any case where (as determined by the Secretary)—

"(i) the individual involved is disabled (as defined in subsection (a)(3)) and requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility (within the meaning of those terms as used in title XIX);

"(ii) it is appropriate to provide such care for the individual outside such an institution; and

"(iii) the estimated amount which would be expended in providing the individual with such care outside an institution, when added to the amount of any benefits that would be payable with respect to such individual under this title by reason of the application of this subparagraph, is not greater than the estimated amount which would otherwise be expended in providing the individual with such care within an appropriate institution.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the month in which this Act is enacted.

SEC. 2. AMENDMENTS TO TAX ON GREENMAIL.

(a) GENERAL RULE.—

(1) Subsection (a) of section 5881 of the Internal Revenue Code of 1986 (relating to greenmail) is amended by striking "gain realized by such person on such receipt" and inserting "gain or other income of such person by reason of such receipt".

(2) Subsection (b) of section 5881 of such Code is amended—

(A) by striking "transferred by a corporation" and inserting "transferred by a corporation (or any person acting in concert with such corporation)", and

(B) by striking "its stock" and inserting "stock of such corporation".

(3) Subsection (d) of section 5881 of such Code is amended—

(A) by striking "the gain" and inserting "the gain or other income", and

(B) by striking "Gain Recognized" and inserting "Amount Recognized".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 10228 of the Revenue Act of 1987.●

By Mr. METZENBAUM (for himself, Mr. PELL, Mr. WEICKER, and Mr. HARKIN):

S. 2095. A bill to strengthen the protections available to private employees against reprisal actions for disclosing information, to protect the public health and safety, and for other purposes; to the Committee on Labor and Human Resources.

UNIFORM HEALTH AND SAFETY WHISTLEBLOWERS PROTECTION ACT

● Mr. METZENBAUM. Mr. President, today I rise to introduce the Uniform Health and Safety Whistleblower Protection Act. This measure has bipartisan support with Senators PELL, WEICKER, and HARKIN as original cosponsors.

Private sector employees should feel free to report illegal or improper activities that endanger the public health or safety without fear of personal reprisal. It is a fundamental principle of good Government to encourage citizens to report illegal activity to the proper authorities. Especially when public health or safety is at stake, individuals who are willing to report unlawful, hazardous practices to avert a disaster should be honored as heroes. Instead, in too many cases, their reward is to be fired, harassed, demoted, or blacklisted by their employers.

That's what happened to Daniel Arthur from my State of Ohio who was forced to quit his job as a safety inspector at a uranium refinery. Arthur warned his employer that a project to process uranium was contaminated with plutonium and there was danger that without adequate safeguards, workers could be exposed to plutonium. Arthur fought to get his job back and eventually he was totally vindicated when his employer was forced to reinstate him.

Not all cases have such a happy ending. Betty Simon, a chicken inspector from Missouri, cooperated with Federal authorities in an investigation into meat contamination and feeding irregularities. Her efforts helped reduce a significant public health hazard but she became the victim of harassment and intimidation by her employer.

Jim Campbell, a researcher for a pharmaceutical manufacturer in Indiana, blew the whistle on the drug oraflex. The FDA had to remove the drug from the market because of its potentially deadly, but undisclosed, side effects. Campbell's efforts saved lives; his reward was to lose his job.

John Pavolini, an air transport pilot with a New York commuter airline, reported to the FAA that his employer was using an unsafe airplane. On the day he filed his report, two things happened—the FAA grounded the plane after an inspection uncovered numerous safety violations and the airline fired Pavolini. A Federal appeals court recognized the dilemma: "Pavolini was in a difficult situation, facing a loss of his job on the one hand and a potential loss of lives on the other; he should be commended for placing public safety over private concerns."

Commending private sector whistleblowers is a nice gesture. But we must do more because whistleblowers may be our only defense against corporate outlaws threatening the public health or safety. These courageous workers do not need empty praise. They deserve effective Federal laws—Federal laws with real teeth—to protect them from personal reprisal.

More than a dozen Federal laws provide some protection to private sector whistleblowers. The Administrative Conference of the United States, an independent Federal agency charged with recommending improvements in Federal administrative proceedings, conducted an extensive review, complete with a public hearing, of the existing Federal whistleblower laws. As a result of this thorough examination, the conference issued a formal recommendation calling for omnibus legislation to bring order to the current patchwork statutory scheme.

I will summarize the conference recommendations, but I would ask that the entire report by the conference, including the analysis prepared by consultant Eugene Fidell, entitled "Federal Protection of Private Sector Health and Safety Whistleblowers," be printed in the RECORD following my statement; and following the bill.

The Administrative Conference concluded that the current Federal statutory scheme lacks uniformity and that the unexplained differences in the statutes threaten "to undermine the credibility of this area of the law." To correct this situation the conference adopted the following eight specific provisions to be included in omnibus legislation:

A uniform definition of protected conduct;

A uniform statute of limitations of at least 180 days;

A uniform provision for remedies;

Assignment of preliminary investigative responsibility with the Secretary of Labor;

Authorization for the Secretary of Labor to use alternative means of dispute resolution;

Opportunity for an on-the-record hearing before a Department of Labor administrative law judge, with discretionary review before the Secretary of Labor, judicial review in the court of appeals and enforcement in the district court;

A grant of subpoena power to the Secretary of Labor for whistleblower proceedings, with judicial enforcement; and

Rulemaking authority to the Secretary of Labor regarding whistleblower proceedings.

The bill I am introducing today incorporates each one of the Administrative Conference's specific recommendations. It protects all employees who disclose unlawful activities that will endanger the public health or safety; who participate in formal Federal proceedings relating to unlawful or hazardous activities; or who refuse to participate in activities that present imminent and substantial danger to the public health or safety.

The bill centralizes the administrative process within the Department of Labor and includes preliminary investigation, opportunity for an administrative hearing, discretionary review by the Secretary of Labor, judicial review in the court of appeals and enforcement in the district court.

Speedy resolution of a whistleblower's complaint furthers the interests of the employee, the employer and the public. The bill includes specific, realistic time limits at each stage of the procedure to insure expeditious consideration of the complaint. If the Department of Labor does not resolve the complaint within the prescribed time period, then the whistleblower may bring a civil action to obtain protection.

To bring order to the current confusing pattern of laws, this act would supersede existing Federal whistleblower laws to the extent those laws provide inconsistent rights to private sector health or safety whistleblowers. In addition, the administrative and enforcement provisions of this act would become the exclusive mechanisms for other Federal whistleblower laws.

This bill corrects another major problem raised by the Administrative Conference study. There are gaps in whistleblower protection because there is no Federal protection for employees in such major industries as aviation and aeronautics, vessel construction and operation, and manufacturing and production of food, drugs, medical devices or consumer products generally. If we are serious about protecting public health and safety, we must close the loopholes and protect workers in these vital industries.

Protecting whistleblowers is good Government and smart business. That's why this bill has broad-based support from such diverse groups as the Administrative Conference and the Government accountability project, a public interest group dedicated to representing the rights of whistleblowers.

The free flow of information about health and safety hazards should not be chilled. Under our current system, irresponsible employers can cover-up illegal, dangerous activities by intimidating workers into silence through threats of personal reprisals. This bill will eliminate such intimidation and will allow us to protect the public from corporate outlaws.

As chairman of the Labor Subcommittee, I will hold hearings on the Uniform Health and Safety Whistleblower Protection Act soon. I urge all my colleagues to support this legislation.

I ask that a copy of the bill be printed in the RECORD immediately following my statement.

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

S. 2095

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniform Health and Safety Whistleblowers Protection Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) private sector employees who report unlawful or hazardous activities perform an important public service by helping ensure the health and safety of workers and the general public;

(2) private sector employees should be able to report unlawful or hazardous activities without fear of personal reprisal; and

(3) private sector employees who make such reports are not consistently and adequately protected against personal reprisal by the current Federal laws designed to protect private sector whistleblowers.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for private sector employees who report an employer's unlawful or hazardous activities, to prevent retaliatory action against such employees, and to improve the health and safety of workers and the general public by—

(1) creating uniform substantive protections and administrative procedures for whistleblower complaints;

(2) centralizing administration and enforcement of whistleblower protection within the Department of Labor;

(3) extending whistleblower protection regarding health and safety matters for private sector employees; and

(4) ensuring that reports of unlawful or hazardous activities are referred to the appropriate Federal agencies for investigation.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Employment Standards Administration in the Department of Labor.

(2) COMMERCE.—The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States, or between points in the same State but through a point outside thereof.

(3) EMPLOYEE.—The term "employee" means any individual who is employed by an employer or who is an applicant for employment with an employer.

(4) EMPLOYER.—The term "employer" means a person engaged in a business affecting commerce who has employees, except that such term does not include the United States or any State or political subdivision of a State. The term "employer" includes an agent of the employer and an employer of the employer.

(5) FEDERAL LAW.—The term "Federal law" means the Constitution of the United States, a Federal law, regulation, license, permit, order, treaty, judgment, or decree, or State law that executes a Federal law.

(6) PERSON.—The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(7) PROCEEDING.—The term "proceeding" means a trial, hearing, investigation, inquiry, inspection, administrative rulemaking, or adjudication involving a Federal agency.

(8) FEDERAL AGENCY.—The term "Federal agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, or any interstate governmental agency or commission.

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) STATE.—The term "State" means a State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, or any other Territory or possession of the United States.

SEC. 4. EMPLOYEE PROTECTION.

(a) IN GENERAL.—No person shall discharge or in any other manner discriminate against any employee because the employee—

(1) discloses, or demonstrates an intent to disclose, an activity, policy, or practice of an employer that the employee reasonably believes is a violation of Federal law that creates a danger to the health or safety of the employee, other employees, or the public;

(2) assists or participates, or demonstrates an intent to assist or participate, in a proceeding with respect to an activity, policy, or practice of an employer that the employee reasonably believes creates a danger to the health or safety of the employee, other employees, or the public, or with respect to administration of this Act; or

(3) refuses to participate in an activity, policy, or practice of an employer that the employee reasonably believes poses an imminent and substantial danger to the health or safety of the employee, other employees, or the public.

(b) WAIVER.—Except as provided in section 5(j), agreements by employees, express or implied, written or oral, purporting to waive or modify their rights under this Act shall be void as contrary to public policy.

(c) EXEMPTION.—This Act shall not apply with respect to any employee who, acting without direction from the employee's employer, deliberately causes a violation of Federal law.

SEC. 5. REMEDY.

(a) COMPLAINT.—

(1) FILING.—Any employee who believes the employee has been discharged or otherwise discriminated against by any person in violation of section 4 may, within 180 days after such alleged violation occurs, after the discharge or other discrimination has taken effect, or after the employee first learns or reasonably should have learned of the violation, whichever is the latest, file (or have filed by any person on the employee's behalf) a complaint with the Assistant Secretary alleging such violation. The complaint may be filed without regard to exhaustion of any other remedies.

(2) COPY.—On receipt of such a complaint, the Assistant Secretary shall cause a copy of the complaint to be served on the person named in the complaint and on any Federal agency that may have jurisdiction over the activity, policy, or practice alleged in the complaint.

(b) INVESTIGATION.—

(1) IN GENERAL.—Within 45 days of the receipt of a complaint filed under subsection (a), the Assistant Secretary shall conduct an investigation to determine whether there is reasonable cause to believe the complaint has merit and shall issue an order setting forth the findings. If there is reasonable cause to believe a violation of this Act has occurred, the Assistant Secretary shall accompany the findings with an order providing the relief prescribed by subsection (g). If the violation of this Act has contributed to the termination of the employee's employment and reinstatement is sought, the Assistant Secretary shall provide in the order for the employee's immediate reinstatement.

(2) HEARING.—If the Assistant Secretary fails to issue an order within the period prescribed in paragraph (1), any party may request a hearing before an administrative law judge as provided in subsection (c). Any order issued by the Assistant Secretary shall include a statement of the right of the parties to request a hearing pursuant to subsection (c).

(c) HEARING REQUEST.—

(1) IN GENERAL.—Any findings or order issued pursuant to subsection (b) shall be the final order of the Secretary subject to judicial review pursuant to subsection (i) unless the complainant or the person named in the complaint requests a hearing before an administrative law judge within 15 days of receipt of the findings or order. Any request for a hearing shall be filed with the Office of Administrative Law Judges of the Department of Labor within 5 days of receipt by the Assistant Secretary. Such a request shall not operate to stay any reinstatement remedy contained in the Assistant Secretary's order.

(2) INTERVENTION BY SECRETARY.—Within 15 days after receipt of a request for a hearing, the Secretary shall make a determination, in writing, whether to intervene on behalf of the complainant. The Secretary's determination shall not preclude the complainant or any other person on behalf of the complainant from representing the complainant during the proceedings authorized under this section.

(d) SUBPOENA POWER.—

(1) IN GENERAL.—The Secretary, Assistant Secretary, or administrative law judge assigned to conduct the hearing on the complaint shall have authority to issue subpoenas or other orders for the purpose of conducting investigations and hearings pursuant to this Act.

(2) RULEMAKING AUTHORITY.—The Secretary shall have rulemaking authority with respect to investigative and adjudicatory procedures and all other matters pertaining to the administration and enforcement of this Act.

(e) HEARING PROCEDURE.—

(1) TIME FOR COMPLETION.—Any hearing requested pursuant to subsection (c) shall be completed before an administrative law judge within 180 days of receipt of the request for a hearing by the Assistant Secretary.

(2) NOTICE.—The parties shall have a reasonable opportunity for prehearing discovery and shall be given written notice of the time and place of the hearing at least 15 days prior to the hearing.

(3) ADMINISTRATIVE PROCEDURE.—The hearing shall be subject to the requirements of section 554 of title 5, United States Code.

(4) TRIAL DE NOVO.—The hearing shall be de novo and the administrative law judge shall give no legal effect to any findings or orders of the Assistant Secretary.

(5) DECISION.—Within 60 days after the conclusion of the hearing, or within 225 days after receipt of the hearing request by the Assistant Secretary, whichever is earlier, the administrative law judge shall issue a decision containing findings of fact, conclusions of law, and the remedy ordered, if any. The decision shall be served on the Secretary and on all parties to the hearing and shall include a statement to the parties of their right to appeal pursuant to subsection (f).

(f) ADMINISTRATIVE APPEAL.—

(1) NO REVIEW.—Any decision issued pursuant to subsection (e) shall be the final order of the Secretary subject to judicial review pursuant to subsection (i) unless a party petitions the Secretary for review or the Secretary issues an order of review within 15 days after the issuance of the decision.

(2) REVIEW.—Within 60 days after receipt of the petition for review or issuance of an order of review or within 360 days after receipt of the complaint, whichever is earlier, the Secretary shall issue a final order, based on the record and the decision of the administrative law judge, which shall be served on all parties. If the Secretary does not issue a final order within the period prescribed by this subsection, the decision of the administrative law judge shall become the final order of the Secretary.

(g) DAMAGES.—

(1) IN GENERAL.—If in response to a complaint filed under subsection (a), the Secretary, Assistant Secretary, or administrative law judge determines that a violation of this Act occurred, the Secretary, Assistant Secretary, or administrative law judge shall order—

(A) the person who committed the violation to take affirmative action to abate the violation;

(B) such person to reinstate the complainant to the complainant's former position, if

reinstatement is sought, together with compensation, including back pay and lost benefits, terms, conditions, and privileges of the complainant's employment;

(C) compensatory damages;

(D) exemplary damages, where appropriate; and

(E) such other equitable relief as is necessary to correct any violation of this Act or to make the complainant whole.

(2) COSTS.—Whenever a final order is issued sustaining the complainant's charge under this Act, the Secretary, Assistant Secretary, or administrative law judge, at the request of the complainant, shall assess all costs and expenses (including attorneys' fees) as determined by the Secretary, Assistant Secretary, or administrative law judge to have been reasonably incurred by the complainant for and in connection with the proceeding against any person committing such violation.

(h) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—If no final order is issued within the period prescribed by subsection (f), the complainant may file a civil action within 90 days for damages and equitable relief in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, the citizenship of the parties, or further exhaustion of any administrative remedies provided in this Act.

(2) NOTICE.—On expiration of the period prescribed by subsection (f), the Secretary shall notify the complainant of the opportunity to file a civil action pursuant to this subsection.

(3) COSTS.—Whenever a final order is issued sustaining the complainant's charge under this Act, the district court, at the request of the complainant, shall assess all costs and expenses (including attorneys' fees) as determined by the district court to have been reasonably incurred by the complainant for and in connection with the civil action against any person committing such violation.

(i) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued pursuant to this Act may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred. The petition for review must be filed within 60 days after the issuance of the order. The review shall be conducted in accordance with chapter 7 of title 5, United States Code. The filing of a petition for review under this subsection shall not, unless ordered by the court, operate as a stay of the order.

(j) SETTLEMENT OR ALTERNATIVE DISPUTE RESOLUTION.—On receipt of a complaint pursuant to subsection (a), the Assistant Secretary shall attempt to reach a settlement between the complainant and the person named in the complaint. The Secretary and Assistant Secretary are encouraged to use alternative means of dispute resolution to resolve the complaint, except that the parties must consent, in writing, before the Secretary or Assistant Secretary may employ such means. The Secretary, Assistant Secretary, or administrative law judge shall not enter into a settlement terminating a proceeding on a complaint without the participation and written consent of the complainant. Any settlement order issued pursuant to this subsection shall be a final order of the Secretary and shall include findings that the settlement is in the best interests of the complainant and of the public.

(k) TIME COMPUTATIONS.—Except as otherwise provided in this Act, for purposes of a proceeding on a complaint, all time computations shall be made in accordance with the Federal Rules of Civil Procedure.

(l) POSTING.—Each employer shall post and keep posted in conspicuous places on its premises a notice to be prepared or approved by the Secretary setting forth information as the Secretary considers appropriate to carry out this Act.

SEC. 6. ENFORCEMENT.

(a) BY THE SECRETARY.—Whenever a person has failed to comply with an order issued under this Act (including a subpoena), the Secretary may file a civil action in the United States district court for the district in which the violation is alleged to have occurred to enforce such order. In an action brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive and declaratory relief and compensatory and exemplary damages.

(b) BY THE PARTIES.—Any person on whose behalf an order (including a subpoena) is issued pursuant to this Act may commence a civil action against the person named in the order to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order. On issuance of an order on behalf of any person seeking enforcement under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the person seeking enforcement.

SEC. 7. COMPLAINT REFERRAL.

(a) REFERRAL.—On issuance of a final order (including an order approving a settlement pursuant to section 5(j)) by the Secretary, Assistant Secretary, or administrative law judge, the Secretary shall cause a copy of such order to be served on each Federal agency that may have jurisdiction over the activity, policy, or practice alleged in the complaint, except that only the relevant portions of a settlement order shall be provided in the copy. Such Federal agency shall take appropriate action with respect to the activity, policy, or practice.

(b) FINDINGS.—Within 30 days after taking an action under subsection (a), a Federal agency receiving a copy of a final order or the relevant portions of a settlement order pursuant to subsection (a) shall—

(1) prepare a report on the action; and

(2) provide a copy of the report to the Secretary, all parties to the final order, and the relevant committees of Congress.

(c) OTHER INVESTIGATIVE AUTHORITY.—Nothing in this section limits the authority of any Federal agency under any other law.

SEC. 8. EFFECT ON OTHER RIGHTS AND REMEDIES.

(a) STATE RIGHTS AND REMEDIES.—The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other rights and remedies of the employees provided under State law, and are not intended to alter or effect such rights and remedies.

(b) CONTRACTUAL RIGHTS AND REMEDIES.—Except as provided in section 4(b), the rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual rights and remedies of the employees, and are not intended to alter or effect such rights and remedies.

(c) FEDERAL RIGHTS AND REMEDIES.—It is the express intent of Congress to supersede applicable Federal laws only insofar as the laws may provide rights and remedies to employees protected by this Act that are inconsistent with the rights and remedies provided by this Act.

(d) FEDERAL PROCEDURES.—It is the express intent of Congress to supersede the enforcement and administration procedures in applicable Federal laws by making the enforcement and administration procedures in sections 5, 6, and 7 the exclusive enforcement and administration procedures.

(e) DEFINITION.—For purposes of this section, the term "applicable Federal laws" means—

(1) the provisions of law that provide private sector employees with protection against discharge or discrimination for activities described in section 4, that are contained in—

(A) section 23 of the Toxic Substances Control Act (15 U.S.C. 2622);

(B) section 11(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(c));

(C) section 505(a) of the Migrant Seasonal and Agricultural Worker Protection Act (29 U.S.C. 1855(a));

(D) section 105(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 815(c));

(E) section 703 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1293);

(F) section 507 of the Federal Water Pollution Control Act (33 U.S.C. 1367);

(G) section 1450 of the Public Health Service Act (42 U.S.C. 300j-9);

(H) section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851);

(I) section 7001 of the Solid Waste Disposal Act (42 U.S.C. 6971);

(J) section 322 of the Clean Air Act (42 U.S.C. 7622);

(K) section 110 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9610);

(L) section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441);

(M) section 7 of the International Safe Containers Act (46 U.S.C. 1506); and

(N) section 405 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2305); and

(2) the provisions of law that provide private sector employees with protection against discharge or discrimination for activities described in section 4, that are contained in any other Federal law that is enacted after the date of enactment of this Act, unless enacted in express limitation of this paragraph.

[Recommendation 87-2]

FEDERAL PROTECTION OF PRIVATE SECTOR HEALTH AND SAFETY WHISTLEBLOWERS

Adopted June 11, 1987

Private sector employees who make disclosures concerning health and safety matters pertaining to the workplace are protected against retaliatory actions by over a dozen federal laws. By common usage these employees as well as others who make similar disclosures concerning fraud or other misconduct (but who are beyond the Conference's current study)[1] have become known

[1] The Conference has limited its study to health and safety related disclosures because in this area a pattern of federal statutory protections has emerged with sufficient experience to allow a study.

as whistleblowers. Under current statutes, for example, nuclear power plant workers, miners, truckers, and farm laborers are specifically protected when acting as whistleblowers. Other workers may be covered under the more general protections granted by the Occupational Safety and Health Act (OSHA) or various environmental laws.

The protection provided employees by the so-called whistleblower statutes under study serves the important public interest of helping ensure the health and safety of workers in the various regulated industries or activities, as well as that of the general public. The statutes are intended to create an environment in which an individual can bring a hazardous or unlawful situation to the attention of the public or the government without fear of personal reprisal. Such disclosures can be a valuable source of information especially where the public lacks the knowledge or access to information necessary to be fully informed on these important issues.

In its examination of the current federal statutory scheme designed to protect whistleblowers in the private sector, the Conference found that, as currently written, the various whistleblower statutes lack uniformity in a number of areas including the following:

1. Investigative responsibility is assigned to numerous agencies, including the Department of the Interior and several within the Department of Labor (DOL), with little coordination among them.

2. Adjudicatory responsibility is similarly divided. For example, while several statutes provide for adjudication by a DOL administrative law judge, others provide for decisions by different agencies or for trial in the district court.

3. Judicial review likewise differs. Some statutes provide for review in the district court, some in the court of appeals. And for some, no review is available.

4. Statutes of limitations for filing a complaint range from 30 days to 180 days.

5. Definitions of protected conduct differ according to statute. For example, protected disclosure may include any disclosure or may be more narrowly defined as disclosure to "the public," to the media, to the responsible agency, or to a union or employer. Protected conduct may or may not include refusals to work.

6. In certain cases where the designated agency declines to proceed with the complaint (under either the OSHA or the Asbestos Hazard Emergency Response Act), the complaining employee is left without any further administrative or judicial review.

As a result of these statutory incongruities, available procedures and protections may differ depending solely upon the industry to which an aggrieved employee belongs. For example, an employee seeking protection under the Clean Air Act (CAA) has 30 days in which to file a complaint, while an employee filing under provisions of the Migrant Seasonal and Agricultural Worker Protection Act (MSAWPA) has 180 days. And while both CAA and MSAWPA violations are investigated by the Wage and Hour Division of the Department of Labor, adjudication of CAA complaints is before a DOL administrative law judge, while MSAWPA complaints are adjudicated in the district courts. The Conference has concluded that this lack of uniformity does not appear to be reasoned, but most likely reflects the incremental enactment of the various statutes over a period of years.

Accordingly, the Conference believes that omnibus whistleblower legislation providing for centralization of the investigative and adjudicative functions is needed. Because the Department of Labor now investigates and adjudicates such complaints under the majority of existing statutes, centralization in that Department is the logical choice. Although specialized expertise possessed by agencies responsible for the various regulatory programs covered by whistleblower provisions may be required in exceptional circumstances to resolve these disputes, the Conference believes that centralization is preferrable and that enforcement and adjudicative responsibilities should where feasible be assigned to the DOL.

The Conference study also discussed areas of regulation where gaps in whistleblower protection exist. These include the aviation and aeronautics industries, vessel construction and operation, and manufacturing and production of food, drugs, medical devices or consumer products generally. Where Congress has judged it necessary to regulate an industry so as to ensure the safety of its workplace, products, services or the environment, Congress should consider whether it is appropriate that enforcement of the regulatory scheme be strengthened by providing whistleblower protection for the industry's employees who report statutory violations.

The study also indicated that access to written decisional precedents in these cases needs to be improved. The Department of Labor's Office of Administrative Law Judges does not yet publish its decisions (although it has recently announced plans to do so), and a unified index for these decisions and those of other agency adjudicative bodies does not exist. Publication and indexing of existing case law should help narrow the issues for future adjudications, contribute to a sense of fairness in the adjudicatory process, and improve case management. In addition, the study found that, with certain exceptions, there is little interaction between the program agency and the investigating-adjudicating agency, thus diminishing the involvement of the lead program agencies. Procedures should be established by which program agencies provide assistance to investigative agencies, and adjudicatory agencies report decisions back to the program agency.

Finally, the Conference notes that there is a growing amount of litigation in state courts concerning whistleblowers, but does not take a position on whether federal statutes do or should preempt state law in this field. (ACUS Recommendation 84-5, Preemption of State Regulation by Federal Agencies, recommends that Congress address foreseeable preemption issues, and advises regulatory agencies to be aware of situations where a conflict might arise.)

With the increasing interest in these matters by Congress, the media and the general public, the Conference hopes that its study will provide a foundation for needed improvements.

RECOMMENDATION

I. In the interest of uniform treatment of private sector health and safety whistleblowers, Congress should enact omnibus legislation for the handling and resolution of whistleblowers' complaints. In enacting this legislation, Congress should review the categories of workers to which it is appropriate to extend whistleblower protection. As a general matter, the administration of this program should be centralized in the Department of Labor in furtherance of efficiency and harmony of results. If, however, Congress deems it necessary for a program agency to retain or receive investigative or adjudicative responsibility for whistleblower complaints, Congress should strive for uniformity in the substantive protections and procedures applicable to the separate programs.[2] The omnibus and any other legislation should include:

(A) a uniform definition of protected conduct;

(B) a uniform statute of limitations of not less than 180 days governing the filing of complaints;

(C) a uniform provision for remedies;

(D) assignment of preliminary investigative responsibility to the Secretary of Labor[3] for all private sector health and safety whistleblowing retaliation cases;

(E) authorization for the Secretary of Labor to employ alternative means of resolving these disputes, with the consent of the parties (see ACUS Recommendation 86-3, Agencies' Use of Alternative Means of Dispute Resolution);

(F) provision for an opportunity by any affected person to request an on-the-record APA hearing before a Department of Labor administrative law judge and for discretionary review by the Secretary of Labor, judicial review in the courts of appeals, and enforcement in the district courts;

(G) a grant of subpoena power to the Secretary of Labor for whistleblowing investigations and hearings, with provision for judicial enforcement; and

(H) a grant of rulemaking authority to the Secretary of Labor with respect to investigative and adjudicatory procedures, notice-posting requirements and mandatory coordination with other agencies.

II. Whether or not Congress enacts omnibus whistleblowing legislation, the Secretary of Labor should:

(A) promulgate rules of appellate procedure governing practice and procedure in connection with the Secretary's review of administrative law judge decisions in whistleblower cases;

(B) transfer primary private sector health and safety whistleblowing investigative responsibility to a single entity within the Department of Labor, absent compelling reasons to the contrary;

(C) develop, in consultation with the agencies responsible for the substantive regulatory programs, detailed written procedures for coordinating investigation, adjudication and follow-up in whistleblowing cases; and

(D) in accordance with the Freedom of Information Act, 5 U.S.C. § 522(a)(2)(A), index and publish all ALJ and Secretarial decisions in whistleblowing cases, including those rendered prior to the date of this recommendation.

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[2] The Conference does not intend to suggest that whistleblower protection provisions now administered by the Department of Labor be reassigned. Nor is this recommendation intended to affect the existing jurisdiction of the National Labor Relations Board to investigate and adjudicate allegations of unfair labor practices.

[3] All references to the Secretary of Labor in recommendations, I(D)-I(H) encompass other appropriate agency heads in instances where Congress deems it necessary for a program agency to retain responsibility.

FEDERAL PROTECTION OF PRIVATE SECTOR HEALTH AND SAFETY WHISTLEBLOWERS

(A report to the Administrative Conference of the United States by Eugene R. Fidell)

INTRODUCTION AND SUMMARY [1]

Few areas of federal labor law are currently the subject of as wide public interest as "whistleblowing", a now familiar term for the dissemination by an employee of information critical of or reflecting adversely on an employer, typically for the purpose of correcting or preventing some violation of law or other harm to the public interest.[2] The most widely publicized recent episode—involving two engineers employed by Morton Thiokol Inc., a major National Aeronautics and Space Administration contractor for the ill-fated *Challenger* space shuttle—is only one in a growing series of incidents in which employees have alleged that they were retaliated against for whistleblowing in matters affecting health or safety.

Over a dozen federal laws attempt to protect whistle-blowers from retaliation in wide areas of private sector activity where health and safety are at stake.[3] These laws, which protect both public and workplace health and safety interests, omit large and potentially important industries such as aviation and pharmaceuticals. In addition, they have created a crazy quilt of investigative, adjudicatory and review responsibilities. These are summarized in Table 1 below. There appears to be increasing Congressional interest in protecting yet other categories of whistleblowing.[4]

While a body of literature has developed concerning whistleblowing (and the promise of more to come), it is only now being recognized that these statutes form part of a larger whole. Until now, with a few notable exceptions,[5] little effort has been made to render a rational account of Congress' activity in this area and those who have become involved under one or another of the statutes have tended not to become involved in the others. Federal whistleblowing protection has probably been seen more as an appendage to the underlying substantive regulatory program, than as a focus for legal analysis in its own right or as a new subspecialty within the field of labor law. One of the purposes of this report is to suggest a different perspective: viz., that the varieties of legislative and administrative experience under the federal health and safety whistleblower protection provisions, taken as a whole, represent a "sea change" in labor law that merits study and legislative attention in its own right.

As Table 1 shows, under eight of the federal whistleblowing statutes, the Secretary of Labor has assigned investigative responsibility to the Wage and Hour Division, under two others to the Occupational Safety and Health Administration, and under one to the Mines Safety and Health Administration. Other agencies have important investigative or adjudicatory responsibilities as well. These include the Department of the Interior, which has both investigative and adjudicatory tasks, the Department of Defense (as to DOD contractors), and the Independent Mine Safety and Health Review Commission, whose job is only adjudicatory. With the exception of the relationship between the Wage and Hour Division and the Nuclear Regulatory Commission, there appears to be little active coordination among the agencies concerned.

Some of the statutes create elaborate hearing procedures; others are silent. They differ widely on matters as critical as the definition of protected conduct, the statute of limitations, remedies, and the machinery for adjudication and judicial review. Anomalies abound. For example, statutes of limitations range from 30 days to 6 months. Where whistleblowing in respect of violations of OSHA's own regulations are concerned, OSHA investigates, and adjudication is in the district courts. Where violations of the Surface Transportation Assistance Act of 1982 are in issue, on the other hand, OSHA investigates, but adjudication is by Department of Labor administrative law judges. The Mine Safety and Health Review Commission, an independent agency, decides whistleblowing cases; the Occupational Safety and Health Review Commission—another independent agency—does not. Some of the statutes cover safety-based refusals-to-work along with the kinds of disclosure most people think of as whistleblowing; some contemplate the award of punitive damages; some authorize temporary reinstatement while the merits of the case are being adjudicated.[6] Employees who lose at the agency level under most of the statutes may obtain judicial review; not so, however, in the case of violations of section 11(c) of the Occupational Safety and Health Act or section 211 of the Asbestos Hazard Emergency Response Act because the employees are completely dependent upon the willingness of the Labor Department to prosecute their causes on their behalf.

Because many of these discrepancies reflect vagaries of the legislative process as it has addressed various industries on an incremental or piecemeal basis over the years, a number of them are difficult to justify according to any neutral principle of public administration. On some issues, conscious substantive legislative choice and the political process are reflected in the current institutional arrangements for the protection of private sector health and safety whistleblowers. For this reason, as noted in the concluding section of this report, some of the matters that one might see every reason to alter may lie beyond the ordinary role of the Administrative Conference. On the other hand, the institutional hodge-podge described in this report transcends mere untidiness or asymmetry. At a certain point, divergent approaches can overwhelm the law by eroding public confidence in the fundamental coherence of the governmental process. That point has unquestionably been reached in Congress' efforts to protect those who suffer employee retaliation for calling attention to health and safety violations.

This report suggests that the Conference recommend (1) the enactment of omnibus whistleblower legislation uniformly applicable to all activities subject to health and safety regulation by the federal government in order to encourage private actions in support of those federal programs and to ensure fairness, uniformity and rationality in the adjudicatory and remedial processes, and (2) specific actions (identified below) to be taken by the Secretary of Labor to improve the administration of the current diversity of private sector whistleblower protection programs.[7]

TAXONOMY AND TERMINOLOGY

Although much of the business of ensuring that the laws are observed have become the responsibility of government rather than private citizens, the Supreme Court has rejected the notion that private citizens have no role to play.[8] By way of preface, it may be appropriate to try to orient the whistleblower protection provisions within the range of tools available to government for the achievement of public objectives. Some of these tools are negative, and some are positive. Some are direct (i.e., used by the government itself) and some are indirect (relying rather on private individuals). For example, imprisonment, fines, penalties and forfeitures are familiar sanctions government uses to achieve its ends. These are direct and negative (or disincentives).[9] Rewards [10] or qui tam provisions might be thought of as indirect positive incentives in that they rely on or seek to encourage private interests to help achieve public ends. In some circumstances, the law may create an indirect negative incentive to encourage private citizens to assist in suppressing crime, as in the case of the Tariff Act provision making it a misdemeanor to refuse to assist a Customs officer.[11] The whistleblowing anti-retaliation provisions of federal law are best thought of as the removal of a disincentive for private assistance in achieving public ends, since the purpose of such provisions is to hold harmless those employees whose information must reach the government in order to help achieve public goals.[12]

In addition to this taxonomic note, mention might be made of certain terminological pitfalls in the whistleblowing area. Thus, the phrase "employee protection" is occasionally used to describe whistleblowing anti-retaliation measures.[13] This term, however, is also used in other contexts that have nothing to do with whistleblowing, such as the arrangements under section 507(e) of the Federal Water Pollution Control Act for investigations into employees' complaints that an employer has discharged or discriminated against them because of effluent limitations or orders issued by EPA under that statute,[14] or the seniority-protective provisions of the Airline Deregulation Act of 1978.[15] One recent enactment uses the term "Public Protection," which is so vague as to be essentially meaningless.[16]

The terms "discrimination" and "affirmative action" are used in describing protected whistleblowing and the fashioning of remedies, respectively. These obviously have special meanings in our society, and their use in this context can be a hinderance to understanding because it inappropriately implies a legal or doctrinal kinship with the race relations area, thereby bringing into play a very different set of concerns and values from those that underlie public policy in the whistleblowing area.

THE COMMON LAW CONTEXT

The background against which the federal legislation addressed in this study arose may be briefly sketched.[17] At common law (American, incidentally, rather than English), the rule evolved that an employee who did not have a contract that provided otherwise could be dismissed at the will of the employer. This doctrine is said to have its origins in a treatise published a little more than a century ago,[18] and promptly took root in the cases, which seem to have adopted this notion quite uncritically.[19] Eventually, however, some courts began to carve exceptions from the rule, and doctrines have arisen in a number of jurisdictions holding that there was a "public policy exception" to the "employment-at-will" rule. In summary, such exceptions hold that an employer will not be permitted to discharge an employee for conduct that advances a recognized public policy. The law on this point is essentially state law,[20] and the extent to which the doctrine applies to any particular

set of facts is likely to vary dramatically from one jurisdiction to the next.

THE FEDERAL LEGISLATIVE RESPONSE

In addition to judicial recognition of a "public policy exception" to the at-will doctrine, Congress and a number of state legislatures have enacted specific provisions ensuring protection against retaliation for employees who assert various rights. The federal legislation includes a variety of statutes, only some of which deal with public health and safety programs.[21] This report is confined to the measures protecting health and safety whistleblowers; a broader study may also be desirable at a later date to explore the need for rationalizing the total federal legislative scheme.

1. Public Sector Employees.—Table 2 lists the various federal statutes that seek to protect from retaliation those public employees who engage in whistleblowing.[22] These statutes are beyond the scope of this study, but a few words may still be in order. The key statute is the Civil Service Reform Act of 1978, which created broad protection for disclosures by civilian federal employees. Disclosures relating specifically to health and safety form only a small part of the field of protected conduct, and it is believed that few of the whistleblowing cases that have arisen under the CSRA have involved health or safety considerations. Most CSRA cases have to do with allegations of waste, fraud and abuse.

The most recent addition to the list of public sector antiretaliation laws is the Department of Defense Authorization Act, 1987, which extends protection to defense contractor employees for disclosures to Members of Congress, DOD and the Justice Department "relating to a substantial violation of law related to a defense contract." [23] This measure is a modification of an earlier proposal that would have extended expressly to disclosures relating to "substantial and specific danger to public health and safety." In addition, the earlier version protected military personnel as well as contractor employees from reprisals.

2. Private Sector Employees.—The range of federal statutes protecting private sector employees who "blow the whistle" on health and safety problems is considerable. These are set forth in Table 1. Together, they cover a large part of the American work force, and fall into several broad categories. Some are industry-based, such as those affecting mining, the nuclear industry or particular transportation modalities. Some address sweeping environmental concerns, such as those for which EPA is the program agency. And some cut across the broad spectrum of industrial activity in the country, such as OSHA, NLRA or LMRA.[24] The same conduct may violate more than one statute, thus involving multiple decisional tracks.[25]

The effectiveness of these arrangements is open to question. As two perceptive students of the field recently wrote, "[t]he record is particularly grim in industry; not one of the industrial whistleblowers we studied survived on the job." [26] "With few exceptions, they are driven out of not just their jobs, but their professions, too." [27]

3. "Twilight Zone" Cases.—In a number of instances, it may be difficult to characterize the class protected by a whistleblower statute as "public" or "private." For example, the 1984 Defense Department authorization extended whistleblower protection, including health and safety disclosures, to employees of nonappropriated fund activities. Section 211(a) of the Asbestos Hazard Emergency Response Act of 1986 protects all persons from discrimination, but specifically includes employees of state and local educational agencies. State employees have found protection under the Safe Drinking Water Act,[28] and at least one case involving a federal employee—that of EPA employee Hugh Kaufman—has been filed with the Department of Labor under the Comprehensive Environmental Response, Compensation and Liability Act of 1980. Government contractor employees have been held to be protected under several of the whistleblower statutes.[29]

4. Caseload.—Basic caseload figures for private sector health and safety whistleblowing cases in Fiscal Year 1985 appear in table 7. The data show that by far the largest single category of complaints is under section 11(c) of the OSHA Act. These cases, however, do not involve agency hearings; if OSHA finds the case meritorious, it brings a civil action on behalf of the complaining employee. The only intra-agency remedy a complainant has is to seek review within OSHA of an initial decision not to pursue the case.[30] As the table shows, very few section 11(c) cases are pursued by the Department.[31]

The section 11(c) complaint caseload appears to have been fairly stable over the last several years.[32] For example, in FY78, OSHA received 3,000 employee complaints.[33] The corresponding numbers for FY83 and FY84 were 2522 and 2813, respectively.[34]

The next-largest group of cases involves the Surface Transportation Assistance Act, under which OSHA received 354 complaints during FY84.[35] The number of complaints declined to 248 in FY85.[36] "[I]n the first half of 1984, only eight cases were found to have merit. By the end of the year, twenty-five merit findings had been issued, and in 1985 fifty-eight merit findings were issued." [37] In FY85, the OALJ docketed 20 STAA cases following OSHA investigation, and conducted 6 APA hearings.

Third in frequency are retaliation complaints under the Federal Mine and Safety Health Act. MSHA investigated 276 complaints of safety- or health-related discrimination that were filed during FY85.[38]

The Department of Labor has created an Office of Administrative Law Judges to adjudicate cases under a broad range of statutory programs, most of which have nothing to do with whistleblowing. That office is, however, also responsible for a substantial part of the overall whistleblower caseload. Taken together, the OALJ received 77 such cases during FY85 under the various whistleblowing statutes it administers (including the 20 STAA cases referred to above). Of these, the vast majority were nuclear cases brought under the Energy Reorganization Act. Overall, the OALJ has received 264 whistleblowing cases since 1980.[39] The number of whistleblower complaints received by the Department of Labor is not available at this writing, but it appears that in FY85, the Wage and Hour Division conducted approximately 50 investigations under the statutes for which it is responsible, of which about half were found to be meritorious.

Statistics concerning the incidence of whistleblowing cases brought before the NLRB are also unavailable, although case summaries furnished by the Board's Office of General Counsel indicate that health and safety issues are not uncommon in Labor Board proceedings.[40]

There have been very few discrimination complaints under the Surface Mining Control and Reclamation Act.

For comparative purposes, during FY85, the Office of Special Counsel of the Merit Systems Protection Board received 135 whistleblowing disclosures from federal employees.[41]

SHORTCOMINGS OF THE CURRENT ARRANGEMENTS

1. Jurisdictional Lacunae.—The most obvious shortcoming of the current federal legislation protecting healthy and safety whistleblowers is the omission of major sectors of the economy where health and safety are unquestionably at stake. For example, Congress has yet to extend whistleblowing protection to: aviation, aerospace, vessel construction and operation, food and drugs, medical devices, and consumer products generally. While the major environmental laws administered by EPA include whistleblower provisions, one—the Noise Control Act of 1972—does not. Even where the industry itself is covered, the statute may be written to exclude persons whose jobs have safety implications.[42]

A major omission has long been the vast number of government contractors to the extent that their activities were not covered by any of the subject-matter-specific antiretaliation statutes. For example, in 1974, the Department of Labor and the Atomic Energy Commission acknowledged that ". . . Section 4(b)(1) (of the OSH Act) renders OSHA inapplicable to the working conditions of AEC contractor employees working in Government-owned or -leased contractor/operated facilities as long as AEC continues to prescribe and enforce radiological and non-radiological occupational safety and health standards." This kind of gap has been addressed in a variety of ways, including internal agency regulations or contractual provisions.[43]

Congress has also begun to recognize the need for coverage of government contractors in general. For example, in the aftermath of the *Challenger* disaster, Representative Markey observed:

"If the Morton Thiokol engineers were Federal employees, they would have recourse through the Civil Service Reform Act and the Office of Special Counsel. But as employees of a Government contractor, they have no protection." [44]

How whistleblowers such as the Morton Thioikol engineers ought to be protected may well raise difficulty drafting problems, since it appears that their expressions of concern were not couched in terms of violations of federal regulations, but rather involved a degradation of safety standards peculiar to the shuttle effort. Whether safety concerns voiced within a company ought to be protected is a matter of considerable controversy, and Congress would do well, in framing generic whistleblower protective legislation, to consider carefully how such legislation would have affected the *Challenger* case.

Congress has not yet passed general whistleblower protection for employees of government contractors, although it has done so for Department of Defense contractors in the Department of Defense Authorization Act, 1987.[45] Prior to passage of that legislation, a Defense Department contractor employee alleging retaliatory discharge could try to sue under the False Claims Act,[46] although the gravamen of such a case is fraud on the government rather than harm to the employee. Generic protection for contractor

employees was introduced in the 99th Congress[47] and will be reintroduced in some form in the 100th.

Of course, not all health and safety programs involve concerns of the same gravity and magnitude. To take an obvious example, the potential health and safety implications of many violations of NRC regulations could be of a different order of magnitude from an isolated violation of trucking safety regulations. Comparing safety programs requires a consideration not only of the magnitude of the hazard could be developed under which one could argue that different measures of employee protection are appropriate in different industrial or other contexts. On the other hand, one would think that anything that was sufficiently charged with a public interest to warrant federal regulation in the first place should also warrant protection for whistleblowers simply as an aid to enforcement and ensuring voluntary employer compliance with the underlying safety and health requirements.

One thoughtful reviewer of the draft of this study cautioned that expansion of whistleblower protections to persons in highly sensitive positions might make it too difficult to remove an incompetent or malicious employee. Where the superior can anticipate that his own integrity may be put in issue in the adjudicatory process, there may be a chilling effect on his or her willingness to take needed disciplinary action. The net result would be contrary to the public interest of health and safety.[48] This factor is difficult to assess in empirical terms, but there does seem to be a satisfactory response to it: the adjudicatory process must be reasonably prompt and reliable, and so managed as to offer no reason for malcontents or marginal performers to see it as an insurance policy against proper discipline. Agency decisonmakers should be alert to the detrimental effect on health and safety if managers and supervisors form the opinion that turning a blind eye to poor work is preferable to the inconvenience of an investigation and possible hearing. If supervisors are not to be deterred from performing their jobs, the process should be as free of wasted time and effort as possible. Nonetheless, as in any disputatious setting, there will always be some who are so put off at the prosepct of a government investigation that they may "put up" with a poor performer longer than they should. There is, in this, however, nothing peculiar to this setting; how long would an unsafe employee be retained even though firing him or her would trigger some other kind of discrimination claim?

2. Protected Conduct.—The health and safety whistleblowing statutes basically protect two kinds of conduct: (a) disclosures and, in a few instances, (b) refusals to work. In neither category has Congress acted uniformly.

(a) Protected Disclosures.—Table 4 summarizes the statutory provisions that define protected disclosures. As a brief review of that listing will show, Congress has used a wide range of terms to describe the disclosures it wants to protect. It is however, difficult to understand why a uniform set of concepts could not be substituted.

To identify a few of the variations, there are provisions that apply to any disclosure (AHERA) disclosures to the media (OSHA),[49] disclosures to the agency or agencies responsible for administering the underlying regulatory program (e.g., ERA), and disclosures to a union (FMSHA, OSHA) or employer (FMSHA, OSHA, SMCRA). The circuits are split on whether the ERA protects "internal" complaints to an employer.[50] The underlying validity of employee safety concerns under the ERA and environmental statutes has been held to be beyond the Labor Department's jurisdiction; the disclosure need only be made in good faith.[51]

Retaliation against concerted activity in response to safety concerns has been held to be an unfair labor practice by the NLRB, but the Board has recently emphasized that it "was not intended to be a forum in which to rectify all the injustices of the workplace." [52] Given the requirement for concerted activity, and the Board's emphasis on the fact that the employee in Meyers (a truckdriver who was retaliated against for refusing to work and reporting a safety violation to state authorities) might have an action under state law or (had it been in effect at the time) under the STAA, it seems improbable that the NLRA will prove to be of substantial benefit to whistleblowers who act alone—particularly if their conduct might also be protected under other legislation.[53] Indeed, the current Board has expressly disclaimed an interest in "taking it upon ourselves to assist in the enforcement of other statutes." [54] This narrow perspective would seem to be at odds with the philosophy underlying the whistleblower provisions, the basic purpose of which is to assist in the achievement of substantive federal health and safety objectives. Because the statute of limitations for unfair labor practice complaints is longer than most of the whistleblowing statutes, contraction of the NLRB's role effectively reduces the protection available to employees. Meyers suggests that Congress should not look to the broad coverage of the NLRA as a reason to refrain from enacting generic private sector whistleblower legislation. The case has been appealed again to the District of Columbia Circuit.[55]

(b) Refusals to Work.—Employee refusals to work are protected under the Energy Reorganization Act, Federal Mine Safety and Health Act, Federal Railroad Safety Authorization Act, Labor Management Relations Act, National Labor Relations Act and Surface Transportation Assistance Act.[56] The NLRA protects only "concerted activity" under section 7, rather than individual conduct.[57] Unless the refusal to work is part of a group effort or is an individual effort intended to enlist the support of others, or involves the assertion of a right grounded in a collective bargaining agreement,[58] it will not be protected, according to the NLRB's latest pronouncement on the issue.[59] Section 502 of the LMRA applies to employees who stop work "in good faith because of abnormally dangerous conditions," [60] but it is unclear whether the provision protects only those workers actually at risk, or others who join with them.

In addition to the statutory provisions, safety-based refusals to work are protected by a regulation issued under the Occupational Safety and Health Act,[61] and upheld by the Supreme Court in *Whirlpool Corp.* v. *Marshall.*[62]

The refusal to work provisions typically require that the employee have an actual reasonable belief that he is in danger.[63] For example, the STAA provides:

"No person shall discharge, discipline, or in any manner discriminate against an employee . . . for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial vehicle safety and health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. . . ." 49 U.S.C. sec. 2305(b) (Supp. III 1985).

3. Limitation of Actions.—As shown in Table 1, the range of statutes of limitation applicable to health and safety whistleblowing complaints is considerable and, given the plain kinship among these statutes, intellectually indefensible. Absent some showing that would justify differences from one setting to another—and the author has been unable to discern the basis for such a showing—a single statute should govern.

What should the limitation period be? This is necessarily a matter of legislative judgment, and should reflect the fact that employers are unlikely to tell an employee that he or she is being dismissed as a reprisal for whistleblowing. As a result of this factor, the employee may not be aware at the time of discharge that a statutory right has been contravened.

If an employee must file more than a "notice of appeal" to trigger the whistleblowing hearing processes,[64] a 30-day statute is unreasonable, even if a notice is required to be posted advertising the complaint process. Moreover, an employee may well find it impossible to find counsel who can prepare a complaint in such a short period, particularly since much whistleblower litigation is conducted on a contingent fee basis in the hope of securing an award of attorneys fees. As shown in Table 8, a significant number of the whistleblowing cases brought to the DOL Office of Administrative Law Judges are dismissed for untimeliness. Other cases are dismissed for untimeliness by the investigative agencies. On balance, and considering the potential complexity of these cases, a single statute of limitations of not less than 180 days seems appropriate.

4. Investigative Arrangements.—Table 1 identifies which agency is responsible for the investigation of whistleblower complaints under the private sector statutes. The Wage and Hour Division has been given responsibility for seven of the statutes under which hearings are conducted by the DOL Office of Administrative Law Judges, as well as for two statutes (FLSA and MSAWPA) under which adjudication is performed by the district courts.[65] OSHA is responsible for STAA cases that are eventually heard by the OALJ, as well as violations of OSHA's own regulations, which are heard in the district courts.

The basic issue that emerges from the assignment of investigative functions is whether those functions should be performed by the agency with responsibility for the underlying substantive safety program. On the one hand, if the subject matter is complex or technical, it could be argued that only the program agency would have the technical expertise necessary to evaluate whistleblower cases. On the other hand, there may be concern that the program agency might be less than impartial in whistleblower cases to the extent that a whistleblower's charges may be thought to imply that the program agency was ineffective.[66] Some program agencies are considered to be too sympathetic to the regulated

industry, and lack of resources may lead to "dispirited" enforcement of safety regulations.[67] Congress recognized the possibility that an agency might have a conflict of interest, for example, when it broke up the former Atomic Energy Commission (which had both regulatory and promotional responsibilities) into the NRC and the former Energy Research and Development Administration.[68]

The case for having adjudication handled by the program agency based on the theory that substantive expertise in the underlying technical field is required is unpersuasive. For one thing, the program agency would always be available to supply expert witnesses on any truly technical issues, a technique that would presumably be used today in those cases that arise under statutes where adjudication is handled by the district courts, which can claim no special expertise. More to the point, the whistleblowing statutes do not require a determination that the complainant's safety concern is technologically "correct," but rather that is merely reasonable in the circumstacnes. To be sure, even that question imposes on the decisionmaker an obligation to assess the merits of the worker's health or safety concern, but the burden on the decisionmaker would seem to be much less onerous than might be the case if the complainant were protected from reprisal only if his or her safety objection was not only reasonable but "correct."

Congress has not yet taken a clear position on the generic issue of agency conflicts, although under seven of the whistleblower statutes (DOD87, FMSHA, FRSAA, MSAWPA, NLRA, OSHA, SMCRA) the program agency is also the whistleblowing investigative agency.[69] While the statutes under which these roles are combined involve technical areas such as the environmental and nuclear contexts, certainly there are also technical aspects to cases arising under the two mining statutes, under each of which the program agency also investigates. To the extent that a statutorily independent Inspector General is assigned investigative responsibility under DOD87, the danger of institutional conflicts of interest would appear to be minimal under that particular statute.

One useful approach might be to recognize that the investigation of whistleblowing is itself a specialty, and that the public interest would be served by having a single agency responsible for all whistleblowing investigations. Which agency that should be is not crucial, but presumably it should be one that is currently responsible for a substantial share of the government's total incoming caseload of whistleblower complaints. The available data,[70] tend to point toward OSHA, although the Wage and Hour Division has also amassed valuable experience under the varied statutes for which it has responsibility. The choice is probably best left to the Secretary of Labor. In any event, there is no need to add a brand new agency or additional staff for this purpose; the non-OSHA caseload data suggest that interagency transfers would suffice to meet any shift in agency responsibilities. If, on the other hand, substantial new categories of employees are brought under whistleblower provisions, some net increase in staff would be needed, unless there is slack available at present.

The program agencies should play an active role in support of the investigative agencies, even if they do not themselves have investigative responsibility. In technical cases, the program agencies can (and already do, on occasion) furnish technical advice to the investigative agencies. They can also be asked to provide expert witnesses or technical interrogators for hearings. At times, they might wish to appear as amici in the whistleblower hearings.[71] And, to be sure, they should in each case receive reports on the outcome of hearings so that they may take whatever followup actions may be appropriate in light of the facts developed in the adjudicatory process. These reports should include the adjudicatory decisions as well as the investigative agency's comments and analysis, where appropriate.

The program agencies should take affirmative steps in aid of whistleblower protection, such as the issuance of employee protection regulations that could be enforced in the licensing context, where appropriate, as the NRC has done.[72] They can also impose useful notice-posting requirements by regulation so that employees will know in advance of their rights under the employee protection statutes.[73] This is particularly appropriate if Congress continues to insist on unrealistically short statutes of limitation.

Concern has been expressed over the short time typically allowed to the investigative agencies for processing employee complaints. Rather than simply eliminating the investigative phase (e.g., permitting the employee to institute an APA hearing without prior agency screening),[74] attention might be given to providing that if the investigative agency has not completed its investigation within a fixed period, the employee at that time could obtain an APA hearing on request.[75] The disadvantage of such an arrangement would be that the employee would be deprived of the potentially useful initial reaction of the agency: at present, a favorable initial ruling may be critical to the employee's ability to obtain counsel on a contingent fee basis.[76]

Another issue concerns the desirability of requiring or encourging an employee to exhaust remedies provided by the employer as a precondition to an agency hearing.[77] Table 5 identifies those employee protection programs that require or suggest such exhaustion. Many firms today have internal mechanisms for the receipt of employee safety complaints; a few have contracted with outside companies to provide an external private dispute-ventilation machinery.[78] Before a broad requirement for such programs is imposed, however, serious thought should be given to the fact that an exhaustion requirement may only retard employee access to the public adjudicatory process, and arguably provide the employer with an unfair opportunity for early discovery possibly before the employee has legal representation. If attention is given to requiring such programs, the concerned agencies will have to address the discoverability of documents generated during the process (a matter that has already arisen in at least one case arising under the ERA)[79] and the need to toll the statute of limitations during exhaustion. One attorney representing employers has indicated that documents and statements generated by both sides in the course of exhaustive internal channels would be discoverable.[80] The author's view, on the basis of the information currently available, is that the public interest in prompt disposition of employee protection complaints outweighs the competing interest in potentially reducing the need for recourse to formal governmental processes. Certainly public policy "should not aim at driving every internal dispute toward litigation,"[81] but the system should also not create excessive hurdles.

5. Adjudicatory Procedures.—Nowhere is the lack of consistency in federal protection of whistleblowers more apparent than in the arrangements Congress has directed for adjudication of complaints. As shown in Table 1, in 8 instances (involving cases arising under the environmental laws and the STAA), on-the-record APA hearings and recommended decisions are the task of the DOL Office of Administrative Law Judges,[82] subject to final action by the Secretary of Labor,[83] with the assistance of the DOL Office of Administrative Appeals. One source of concern has been the lack of detailed regulatory guidance as to the procedures to be followed in connection with review by the Secretary.[84] The Department of Labor has shown its concern over the case backlog in the Office of Administrative Appeals.[85] An additional step it should take to streamline that final layer of agency review would be to promulgate formal rules of appellate procedure. It has also been suggested that a 3-member appellate panel should be created to review ALJ decisions in whistleblower cases, and to permit interlocutory appeals from ALJ decisions on certain issues.[86]

Like DOL, the NLRB, Mine Safety and Health Review Commission and Internal Board of Land Appeals also provide on-the-record APA hearings. In railroad cases, the decisional body is the National Railroad Adjustment Board which does not provide an APA hearing, and in four categories of cases (nonappropriated fund employees, shipping containers, migrant workers and OSHA), the adjudicatory mechanism is a civil action in district court.

Given the caseload of the district courts, reliance on conventional civil actions rather than appellate court review of agency action in several of these important antiretaliation programs makes little sense. And in the case of complaints under section 11(c) of the Occupational Safety and Health Act, such reliance makes no sense at all when combined with the fact that the complainant has no control over the litigation, i.e., if the agency chooses to dismiss a complaint, the employee can only appeal that decision within the Department of Labor;[87] there is no provision for judicial review of the agency's decision not to pursue a section 11(c) case and no private right of action under that provision.[88] This is in sharp contrast with the other provisions which permit an employee who is disappointed with the outcome of an agency APA hearing to seek judicial review.

Another noteworthy aspect of the adjudicatory process involves the responsibility for representation of the employee. In MSHRC proceedings, the miner is prepresented by MSHA if the agency believes the complaint to be meritorious,[89] but in OALJ cases under the environmental laws, the Wage and Hour Division and the Secretary represent neither party.[90] Under the STAA, the Assistant Secretary for Occupational Safety and Health can prosecute the trucker's case in the OALJ hearing.[91] Under the NLRA, the General Counsel prosecutes.

Here again, the reasons for the discrepancies from one program to another are difficult to fathom. One would think that the same rule should apply across the board, but at the same time it is not clear that every complainant will want or need the prosecutorial assistance of the investigatory agency. Where the complainant is privately represented, the interest in careful hus-

banding of agency resources (including the need to limit what might otherwise be redundant presentations in the hearing) suggests that the agency should step aside—not dropping out of the proceeding, but taking a more passive role, in deference to the trial strategy of the party's chosen counsel. That role would differ if the individual chooses to represent himself or herself, in which case a more active posture would be appropriate, in the interest of ensuring a full and effective airing of the issues. In short, the Secretary should not be required to represent a party who already has counsel, but if the investigatory agency concludes that the case is meritorious, it should be available to prosecute if the complainant so desires.

The statutes frequently set forth a schedule for agency action on the employee's complaint.[92] These schedules are more honored in the breach than the observance,[93] and they probably serve little practical purpose.[94] To the extent that they indirectly encourage hasty investigative agency positions in complex cases, they may well be counterproductive. Table 8 shows elapsed time for DOL case processing. To some extent the numbers may be misleading since it is often the case that both sides—and the ALJ—will agree that more time is needed if the substantive purpose of the statute is to be served. Litigants may and often do want to relax the schedule in any given case if, for example, more discovery is needed, or anticipated procedural or evidentiary complexities arise. The consented-to delays do not account for all the cases, but they suggest that a "rule of reason" or modus vivendi evolves, whatever the statutory language. The extreme delays in some cases are, however, whether consented to or not, a matter of concern, and the responsible officials may want to ensure that case-tracking mechanisms are in place to keep matters from getting out of hand.

Not surprisingly, both employer and employee representatives have expressed frustration with the current arrangements for DOL hearings. For example, employee counsel have called attention to what they perceive as a pattern of discovery abuse by industry counsel.[95] In one current case, there is a dispute over whether an employer's counsel frustrated the employee's ability to obtain the testimony of a needed witness.[96] On the other hand, some believe that there is a danger of providing a forum for frivilous claims, with no penalty to the complainant who can impose substantial costs on an employer simply by filing a complaint.[97] This criticism overlooks the fact that if a complainant violates an ALJ order, he may be defaulted,[98] although that is not a complete answer to the objection. None of the statutes provide for attorneys fees to be awarded against complainants.

To the extent that the current arrangements are deficient in failing to provide for judicial enforcement of DOL subpoenas, that omission should be remedied as soon as possible along the lines available for enforcement of other agency subpoenas.[99] Until Congress takes such action, the main protection against stonewalling in discovery is the availability of adverse inferences[100] or sanctions such as those provided under Rule 37(b)(2) of the Federal Rules of Civil Procedure. Sanctions alone, however, are not a sufficient response to willful failure to cooperate with discovery in a health or safety whistleblowing case because more is at stake then merely the outcome of the individual case. The public interest may require that the facts be developed in such a case, not simply that the individual employee obtain relief, whether through sanctions or a settlement. Moreover, even after judicial enforcement of subpoenas becomes available, ALJs should still be at liberty to draw adverse inferences or impose sanctions in the event of failure to make discovery because the need to apply to a federal court for subpoena enforcement may be too time-consuming and costly for the party seeking enforcement[101]—even though enforcement proceedings are supposed to be summary in nature.[102] A party's failure to press for judicial enforcement of an agency subpoena should for this reason not preclude either adverse inferences or appropriate agency sanctions.

Misconduct by counsel.—Another of the charges levelled by the complainant bar—is a serious matter that can thwart the achievement of congressional objectives and thereby endanger public health and safety. The arrangements currently in place certainly give agency decisionmakers ample authority to penalize such misconduct, and that authority should be invoked when good cause is shown.[103] In the unlikely event that ALJs prove to be indifferent on this score, the Secretary of Labor can be expected to take a firm stand on review. In addition, the usual forums for the consideration of ethical violations remain available. If the misconduct goes to far as to deprive a party of a fair hearing, the decision should be set aside on judicial review.

6. Remedies.—The basic remedies available under the employee protection statutes are the familiar ones of backpay, reinstatement and attorney fees. In some instances, additional relief may be ordered. For example, actual damages are authorized under a number of statutes, and a variety of kinds of injury have been compensated for under those provisions.[104] These include medical expenses, front pay, and job search expenses. In one ERA case, an employee was awarded $10,000 for mental pain and suffering and injury to reputation.[105] Another received $70,000 "to cover past and future medical expenses . . . and as recompense for . . . humiliation and mental suffering."[106] Exemplary or punitive damages are specifically authorized under only two of the environmental employee protection provisions (SDWA and TSCA); in other contexts the Department of Labor has held such damages to be unavailable.[107] Why those statutes alone have that provision is unclear aside from having been inspired by a common model. There is no conceivable reason for this discrepancy; a single rule should apply.

Agencies are also authorized to order abatement of the employer's conduct as well as "affirmative action," although little, if any, use has been made of the latter power. it is to be expected that future cases will see an increase in use of the "affirmative action" power.

Under the FMSHA and STAA, Congress has authorized interim relief or temporary reinstatement pending of complaining employees. Under both of these provisions, temporary reinstatement without a prior evidentiary hearing has been found unconstitutional; in the STAA case, the Supreme Court has the matter under advisement.[108]

Other remedies may well be available through the program agency if, for example, that agency is responsible for licensing the employer in some fashion. This is true under the Atomic Energy Act, and the NRC has taken administrative action against licensees on the basis of whistleblowing by employees.[109] However, as the NRC has indicated,[110] "the action taken by NRC focuses on the licensee to change the conduct of the discriminator. It is not a direct remedy to the employee."

7. Judicial Review.—The arrangements for judicial review, outlined in Table 1, fall into two basic categories. In the case of surface mining and railway whistleblowing, review lies in the district courts; in the other cases, agency action is reviewed in the courts of appeals. Given the similarity of the issues likely to be explored in all such cases, uniform review at the court of appeals level (in keeping with a prior Conference recommendation) would be appropriate once there was underlying uniformity as to agency hearing procedures. Since surface mining cases go through the Interior Department hearing process with review by the Board of Land Appeals, there would seem to be no reason to require an intermediate stop at the district court.[111]

A more fundamental concern has to do with the fact that under OSHA and the Asbestos Hazard Emergency Response Act, if the investigatory agency declines to bring a civil action for the employee, the employee cannot obtain judicial review of that decision, and also cannot bring his own action against the employer. Agency decisions not to prosecute are understood to be non-reviewable, but that doctrine would seem to have no application where an individual employee has been harmed by the violation of a prohibition on retaliation. There is no apparent reason for closing the courthouse doors to such individuals while keeping them open under so many of the other statutes. If nothing else, such an approach drives whistleblowing cases into the state courts under state doctrines, even though the federal interest may be paramount.[112]

8. Interaction with Program Agencies.—As Senator Grassley stressed at the Conference's October 1, 1986 public hearing, it is important not only that the whistleblower be protected from retaliation, but also that the substantive safety and health concern be addressed.[113] This requires close coordination between the agencies responsible for the underlying regulatory program and those responsible for administration of the anti-retaliation provisions.

To date, the program and investigative agencies have taken some steps to foster coordination to achieve better compliance with underlying safety and health obligations. Thus, the Wage and Hour Division and the NRC have a Memorandum of Understanding ("MOU") setting forth the working arrangements between their two agencies in nuclear whistleblowing cases.[114] That arrangement is viewed as ineffective by attorneys representing employees.[115] Similarly, OSHA and the NLRB have an MOU for the coordination of litigation under section 11(c) of OSHA and section 8 of the NLRA,[116] and MSHA and the Labor Board have entered into an agreement for the overlap in their jurisdictions.[117] Other agencies have not pursued the same approach.[118] For example, the Department of Transportation has only an informal working arrangement with the Department of Labor for cooperation in cases arising under the Surface Transportation Assistance Act,[119] and EPA (which has substantive responsibility for several environmental laws that have antiretaliation provisions) has no written understanding with DOL. It also remains possible for a single act of retaliation to trigger more than one statutory scheme. Where this is the case, the agencies should

either be permitted to conduct a joint hearing or one should serve as "lead agency" for the dispute. If all federal anti-retaliation protections were considered, the potential for wasteful duplication would be avoided.[120]

Given the fact that whistleblower protection is, after all, intended to protect public health and safety, formal arrangements should be in place to ensure: (1) that all investigative agencies receive necessary assistance from program agencies, particularly in cases where technical information is important; (2) that program agencies receive prompt detailed reports of the results of all whistleblowing adjudicatory proceedings, and (3) that complaining employees be advised of the action taken by program agencies to remedy the safety problem about which the whistle was blown.[121]

9. Access to Law and Interagency Doctrinal Growth.—Two final and, to a degree, related concerns involve the public availability of decisional law and the impediments to interaction between the separate bodies of law being developed by the adjudicatory agencies responsible for the various whistleblower statutes. While the decisions of the MSHRC, NLRB, and Interior Board of Land Appeals are reported, those of the DOL Office of Administrative Law Judges are not. OALJ decisions have been available only in Washington.[122] That office is responsible for a substantial portion of the overall whistleblower caseload. The result is that litigants before the OALJ have a more difficult time ascertaining the law (thus making proceedings less focused than might otherwise be the case, as well as making it more difficult for employers and employees even to know their basic rights). In addition, the desirable goal of cross-fertilization between the OALJ and other whistleblower adjudicatory agencies is thwarted. This insulation makes little sense (building on the statutory patchwork) tends to retard the development of a coherent body of law in this area.

Fortunately, the Department of Labor has announced that it will publish all OALJ and Secretarial decisions in whistleblower cases beginning January 1, 1987.[123] This is a desirable step for which the Department should be commended, since employees and employers will be better to determine in advance what is lawful and what is not. However, it would also be useful if pre-1987 decisions were published as well. It is assumed, of course, that appropriate indices will also be provided.

Whether publication of the OALJ decisions is sufficient remains an open question. At present, doing research that steps from one anti-retaliation program to another is needlessly cumbersome because of the variety of reporting services. Publication of the OALJ cases will only partially alleviate that problem. If digesting and indexing continue to be according to separate designs for each agency with responsibility for whistleblowing cases, the present system will not have been improving as much as it could be. This is not to suggest that the bar currently confronts a "Tower of Babel" in the whistleblowing area, but the present arrangements necessarily leave the door to doctrinal variations where these may be unwarranted. If Congress decides to bring all private sector health and safety whistleblowing jurisdiction under one "roof" with a single set of statutory provisions administered by a single agency, this concern will go away; if Congress does not, serious attention should be given to integrating the reporting arrangements.

RELATION TO PRIOR CONFERENCE RECOMMENDATIONS

The subject matter of this report touches on several prior administrative conference recommendations:

(a) Compilation of Statistics on Administrative Proceedings by Federal Departments and Agencies (Recommendation No. 69-6).—While the agencies that were contacted were generally forthcoming with statistical data, in a number of instances it was difficult to obtain important detailed caseload data. The Conference may wish to separately evaluate the effectiveness of data-gathering and -orgainzation from this perspective.

(b) Discovery in Agency Adjudication (Recommendation No. 70-4).—In keeping with paragraph 9 of this recommendation, Congress should ensure that agency subpoenas may be issued and judicially enforced in all whistleblowing cases.

(c) Subpoena Power in Formal Rulemaking and Formal Adjudication (Recommendation No. 74-1).—The APA amendment prepared by the Conference would ensure compliance with agency subpoenas in whistleblowing cases, thereby improving the quality of agency decisionmaking and the record available for judicial review.

(d) The Choice of Forum for Judicial Review of Administrative Action (Recommendation No. 75-3).—In keeping with this recommendation, it is presumed that review of agencies' formal adjudication in the courts of appeals would be the norm with enforcement by the district courts.

(e) Time Limits on Agency Action (Recommendation No. 78-3).—The Conference has questioned the use of legislatively-imposed time limits. While a modus vivendi has been reached in the context of the whistleblowing statutes here reviewed, any new legislation should not include such a requirement. Reasonable dispatch should still be the goal, as a matter of agency self-discipline. The available data suggest that it is unrealistic to try to force the investigative or adjudicatory process into a rigid timetable. However, Congress might want to consider making it clear that if a deadline for agency action passes without such action, the employee or employer should be able to obtain an APA hearing without having to wait further. Similarly, if final action is withheld beyond the date prescribed, judicial assistance should be forthcoming more readily than has heretofore been permitted by the courts.[124]

(f) Agency Structure for Review of Decisions of Presiding Officers under the Administrative Procedure Act (Recommendation No. 83-3).—Reference is made below to the need to articulate the procedures for secretarial review of decisions of the DOL Office of Administrative Law Judges.

(g) Preemption of State Regulation by Federal Agencies (Recommendation No. 84-5).—It is improbable that a federal agency would have occasion to directly address the question of preemption in a whistleblowing case, unless, for example, a state remedy had been invoked and one side or the other sought to rely on the result for collateral estoppel or res judicata purposes. This seems unlikely because federal statutes of limitation almost certainly mean the federal case would proceed more promptly than the state case. Nonetheless, if such an issue were to arise, the views of the affected state(s) and other interested parties should be obtained in the adjudicatory process through invited amicus presentations. Preemption is further addressed below in the Conclusions and Recommendations.

(h) Coordination of Public and Private Enforcement of Environmental Laws (Recommendation No. 85-3).—The information-sharing concerns noted in paragraph 2 of this recommendation apply mutatis mutandis to federal whistleblower programs.

(i) Agencies' Use of Alternative Means of Dispute Resolution (Recommendation No. 86-3).—The Conference's recent recommendation concerning ADR arguably bears on the private sector whistleblowing cases. While some private dispute-settlement or avoidance techniques have been tried with a view to encouraging the flow of safety concerns and defusing potential retaliation claims (particularly within the nuclear industry), it is believed that it would be premature to require any such procedure as a precondition to federal administrative adjudication. The Conference might, however, want to suggest that the concerned agencies consider the statute of limitations tolled while permissive internal employer remedies are being exhausted.

CONCLUSIONS AND RECOMMENDATIONS

Clearly there are important questions for Congress as a result of any careful examination of the current arrangements for the protection of private sector health and safety whistleblowers. Some of these are, the author believes, appropriate for Conference recommendation because they involve issues that are essentially policy-neutral. Based on the study results outlined above, the Conference should make recommendations to the Congress and involved agencies as follows:

(a) Congress should enact omnibus whistleblowing legislation to replace all extant federal private sector health and safety whistleblowing provisions. That legislation should include:

(i) protection for all private sector employees (including government contractor employees) and state and local government employees against retaliation for whistleblowing with respect to violations of Federal safety and health requirements;

(ii) assignment of investigative responsibility to the Secretary of Labor for all private sector health and safety whistleblowing retaliation cases;

(iii) provision for on-the-record Department of Labor APA hearings in all private sector health and safety whistleblowing cases, with discretionary review by the Secretary of Labor, judicial review in the courts of appeals, and enforcement in the district courts;

(iv) a single definition of protected conduct;

(v) a single statute of limitations of not less than 180 days;

(vi) a single provision for remedies (including debarment and suspension of government contractors);

(vii) a grant of subpoena power to the Secretary of Labor for whistleblowing investigations and hearings, with provision for judicial enforcement; and

(viii) a grant of rulemaking authority to the Secretary of Labor with respect to investigative and adjudicatory procedures, notice posting requirements and mandatory coordination with program agencies.

(b) Subject to action by Congress as recommended above, the Secretary of Labor should:

(i) promulgate rules of appellate procedure governing practice and procedure in connection with the Secretary's review of decisions of the Office of Administrative Law Judges;

(ii) transfer all private sector health and safety whistleblowing investigative responsibility to the Occupational Safety and Health Administration, since (under section 11(c) of the Occupational Safety and Health Act and section 405 of the Surface Transportation Assistance Act) that agency currently receives by far the largest number of private sector health and safety whistleblowing complaints;

(iii) develop, in consultation with the agencies responsible for the substantive regulatory program, detailed written procedures that are as nearly uniform as the Secretary deems practicable for coordinating investigation, adjudication and follow-up in whistleblowing cases; and

(iv) cause to be indexed and published all ALJ and Secretarial decisions in whistleblowing cases, including those rendered prior to January 1, 1987.

In addition to these changes, Congress and the Executive Branch may wish to address a number of related issues, such as the question of preemption. As was persuasively explained at the public hearing held by the Conference on October 1, 1986,[125] there is a considerable amount of whistleblowing litigation in the state and federal courts, resting not on federal whistleblowing protections, but on state law doctrines such as the public policy exception to the employment-at-will doctrine.[126] State law doctrines are evolving rapidly in this area, and it would be premature to consider legislation preempting state causes of action for retaliation that could be adjudicated in a federal forum. Given the current doctrinal ferment, this is an area which in the words of Justice Brandeis in *New State Ice Co.* v. *Liebmann* come to mind:

"To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country." [127]

Or, as the First Circuit recently put it in a different context, "[t]he cutting edge of reform should be left to uncoerced community initiatives." [128]

For the moment at least, and mindful of the approach the Conference took in Recommendation No. 84-5, the author recommends that States be permitted to continue to pursue their own courses of legal development. That process, so deeply rooted in our federal system, should not lightly be derailed, particularly at a time when all federal programs are under increasing scrutiny to prevent inappropriate intrusion on areas traditionally of concern to the states.

Another issue—which is potentially freighted with political considerations—is the question of reassigning the responsibility for adjudication of safety-based whistleblowing retaliation complaints. The processes that led to the creation of an independent Mine Safety and Health Review Commission with responsibility for such cases and the creation of an independent Occupational Safety and Health Review Commission without such responsibility probably are of such a nature that recommendations for change will be of little utility absent a definite consensus among the interested constituencies.

In the circumstances, the Conference may conclude that it would be best advised to confine its recommendations to more structural or adjectival matters such as the enactment of uniform standards for protected conduct, adjudicatory procedures and remedies, strengthening the hearing process through judicially-enforceable subpoenas, and rationalization of the arrangements for judicial review.[129] That said, however, it would certainly seem that broader coverage of employees in industries with health and safety impacts is in order, and that all private sector health and safety federal whistleblowing protections ought to be administered by a single adjudicatory agency in the interest of fostering like treatment of like cases and maximizing the development of adjudicative expertise in employee protection matters.

Based on this study, there is reason for concern on several fronts, aside from the overall need to restructure, extend and rationalize the federal government's protection of health and safety whistleblowers in the private sector. The data indicate that in many cases it takes far longer than Congress contemplated to investigate and adjudicate whistleblowers' claims. Such delays, which may reflect resources problems, can also arise where the parties and ALJ conclude that more time is needed to do a proper job. Where the parties do not so agree, however, the delay may deter some complainants. Delay may ill serve employer interests as well. In addition, the study suggets a need for greater interagency coordination. Consolidation of adjudicatory functions is an important step towards the solution of that problem, but so long as numerous program agencies have an interest in the subject, the need for improved coordination will be substantial. The Department of Labor may want to consider addressing this problem by developing a program for regular interagency coordination of policies with regard to the protection of whistleblowers, with the result a multi-agency omnibus Memorandum of Understanding and an established interagency coordinating body to encourage communication and interaction among the agencies and responsible staff.

Finally, although nothing in this study should be understood as intimating an opinion on whether justice was done in any particular whistleblowing case, it is concluded that (1) 30-day statutes of limitations are unreasonable, (2) judicially-enforceable subpoenas are essential to the conduct of effective whistleblowing adjudications, and (3) it offends basic notions of fairness that under section 11(c) of the occupational Safety and Health Act or section 211 of the Asbestos Hazard Emergency Response Act victims of retaliation have no access to the federal courts if their cases are not pursued by the Department of Labor.

FOOTNOTES

[1] Partner, Klores, Feldesman & Tucker, Washington, D.C.; B.A., Queens College, 1965, LL.B. Harvard, 1968. The author is grateful to Professor Marshall J. Breger, Chairman of the Administrative Conference, and Jeffrey S. Lubbers, Director of Research, for their assistance with this project. Thanks are also due to Michael P. Lagnado, Class of 1988, The National Law Center, George Washington University, who served as a Research Assistant under a stipend from the Conference, as well as the numerous governmental officials and members of the bar who were uniformly generous with their time and energy. References below to "Tr." refer to the record of a public hearing conducted by the Conference in Washington, D.C., on October 1, 1986. See 51 Fed. Reg. 32116 (1986) (Notice of Hearing).

[2] In this report the term is also used to cover, where appropriate, employee refusals to work based on safety concerns. Such refusals are conceptually distinct from the core notion of whistleblowing identified in the text. They have, however, been treated as one as often as not and are included in this study. They are further addressed below under the heading of "Protected Conduct."

[3] Other federal laws protect private sector whistleblowers in non-health and safety contexts. A recent example is section 3 of the False Claims Amendments Act of 1986, Pub. L. No. 99-562, which amended 31 U.S.C. § 3730 (1982). In addition, numerous statutes prohibit retaliation against persons who complain of discrimination. E.g., Title VII, 42 U.S.C. § 2000(e)-3(a) (1982); Age Discrimination in Employment Act, 29 U.S.C. § 623(d) (1982). Because they do not relate to health and safety programs, these provisions are beyond the scope of the present study. Programs applicable to federal employees are also beyond the scope of this study although they are noted below and applicable legislation is identified in Table 2.

[4] See, e.g., S. 2516, 99th Cong. 2d Sess. (1986) (generic protection for employees of government contractors).

[5] Two excellent works that attempt a comprehensive view of federal protection of private sector whistleblowers are L. Larson & P. Borowski, "Unjust Dismissal" (1986 & Cum. Supp. Sept. 1986), and S. Kohn; "Protecting Environmental and Nuclear Whistleblowers: A Litigation Manual" (Gov't Accountability Project 1985).

[6] The Supreme Court recently held that temporary reinstatement of a complainant prior to a full evidentiary hearing does not violate the employer's due process rights as long as certain preliminary procedures are available, and a full post-reinstatement hearing is expeditiously held. *Brock* v. *Roadway Express, Inc.*, No. 85-1530 (U.S. Apr. 22, 1987.) MSHRC regulations comply with this standard. 51 Fed. Reg. 16022 (Apr. 30, 1986).

[7] For earlier recommendations for omnibus legislation see Abbot, Remedies for Employees Discharged for Reporting an Employer's Violation of Federal Law, 42 Wash. & Lee L. Rev. 1383, 1400 (1985); Jenkins, Federal Legislative Exceptions to the At-Will Doctrine: Proposed Statutory Protection for Discharges Violative of Public Policy, 47 Alb. L. Rev. 466, 513-24 (1983).

[8] United States v. New York Telephone Co., 434 U.S. 159, 175 n.24 (1977).

[9] Congress could, for example, pass a law making it a crime to interfere with or discourage whistleblowing in areas of activity that fall within the federal government's sphere. The Ku Klux Klan Act, 18 U.S.C. § 241 (1982), the literal terms of which might cover such misconduct, has been given a narrow application, and there is no record of it having been used in this fashion.

[10] See, e.g., 18 U.S.C. § 3059 (1982).

[11] 19 U.S.C. § 507 (1982), as amended by Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, § 3152. Some states also have laws making it a crime not to aid a policeman in an emergency. *See* Wash. Post, Nov. 11, 1972, at A7, col. 1 (N.C.).

[12] Another disincentive removal would be to debar government contractors who retaliate against whistleblowers. This was proposed in the case of the Morton Thiokol engineers referred to above, see H.J.R. 634, 99th Cong., 2d Sess. (1986), but the matter died in committee. One of the engineers has sued the company and asserted an FTCA claim against NASA. Boisjoly v. Morton Thiokol Inc., Civil No. 87-194 (D.D.C. filed Jan. 28, 1987), noted in N.Y. Times, Jan. 29, 1987, at A16, col. 1.

[13] E.g., 29 C.F.R. § 24.1(a) (1986).

[14] 33 U.S.C. § 1367(e)(1982); 40 C.F.R. Pt. 108 (1986). See also 24 U.S.C. § 9610(e)(1982) (CERCLA); 42 U.S.C. § 6971 (e) (1982) (SWDA).

[15] C.F.R. Pt. 314 (1986); 29 C.F.R. Pt. 220 (1986).

[16] See Asbestos Hazard Emergency Response Act of 1986, Pub. L. No. 99-519, § 211.

[17] The growth of interest in the whistleblowing area is eloquently attested by the fact that scholarly writers now no longer feel a need to set out the history. E.g., Jenkins, "Federal Legislative Exceptions to the At-Will Doctrine: Proposed Statutory Protection for Discharges Violative of Public Policy," 47 Alb. L. Rev. 466, 467 & n.11 (1983); Bouffard, "Retaliatory Discharge: A Public Policy Exception to the Employment At-Will Doctrine in Maine," 38 Me. L. Rev. 67, 70 n.6 (1986).

[18] Feinman, "The Development of the Employment at Will Rule," 20 Am. J. Legal Hist. 118, 126-27 (1976).

[19] See generally L. Larson & P. Borowski, supra, § 2.04 et seq.

[20] For a summary of federal common law developments in the wrongful discharge area see L. Larson & P. Borowski, supra, § 11.04.

[21] The best single catalogue of the federal statutes appears in L. Larson & P. Borowski, supra, § 11.02-.03. Also very thoughtful are the articles by William R. Jenkins, cited supra, and Kohn & Kohn, "An Overview of Federal and State Whistleblower Protections," 4 Antioch L.J. 99 (1986). Federal regulations also require state OSHA plans to include employee protection provisions. 29 C.F.R. § 1902.4(c)(2)(v) (1986).

[22] Abbreviations appear in Table 10; citations to statutes and implementing regulations appear in Table 9.

[23] Pub. L. No. 99-661, § 942(a)(1), adding 10 U.S.C. § 2409(a).

[24] Section 502 of the Labor Management Relations Act, 29 U.S.C. § 143 (1982), stands on a somewhat different footing from the other statutes. It creates no remedy for retaliation, but rather prevents an employer from invoking a collective bargaining agreement's no-strike clause where one or more employees quits work "in good faith because of abnormally dangerous conditions."

[25] See e.g., *Murphy* v. *Consolidation Coal Co.*, No. 83-ERA-4 (DOL Jan. 17, 1985) (approving settlement under TSCA); *Murphy* v. *Consolidation Coal Co.*, No. CH3-1-D (DOI Jan. 14, 1985) (dismissing SMCRA case upon settlement).

[26] Glazer & Glazer, "The Whistle-Blower's Plight," N.Y. Times, Aug. 13, 1986, at A23, col. 1.

[27] Kleinfeld, "The Whistle Blowers' Morning After," N.Y. Times, Nov. 9, 1986, § 3, at 1, cols. 2,4 (noting conclusion of Glazer research). "But that doesn't mean they always are reduced to dire poverty and icy isolation. Often, they are reincarnated in some new position." Id.

[28] *Bauch* v. *Landers and State of Florida Dep't of Environmental Regulation*, Dkt. No. 79-SDWA-1 (OALJ). See also, e.g., *Chase* v. *Buncombe County, N.C., Dep't of Community Improvement*, Dkt. No. 85-SWD-4 (Solid Waste Disposal Act; county landfill employee). In contrast, a state employee was held not protected under the Surface Mining Control and Reclamation Act on the theory that the state is not a person within the meaning of § 703 of that Act. *Leber* v. *Pa. Dept. of Environmental Resources*, 780 F. 2d 372 (3d Cir.), cert. denied, 106 S. Ct. 3294 (1986).

[29] E.g., *McAllen* v. *EPA*, Dkt. No. 86-WPC-1 (OALJ Nov. 28, 1986); *Conley* v. *McClellan Air Force Base*, Dkt. No. 84-WPC-1 (OALJ Sept. 12, 1984); *McGough* v. *U.S. Navy*, Dkt. No. 86-ERA-18 (OALJ Aug. 19, 1986), slip op. at 3 n. 3 (dictum). But see *Wensil* v. *B.F. Shaw Co.*, Dkt. No. 86-ERA-15 (OALJ July 8, 1986) (DOE contractor employees at plant not licensed by NRC held not protected, despite plain meaning of statute); Wash. Post, Jan. 8, 1987, A17, col. 1, at A18, col. 1 (noting pendency of Wensil jurisdictional issue regarding Savannah River DOE plant).

[30] E.g., *George* v. *Aztec Rental Center, Inc.*, 763 F.2d 184 (5th Cir. 1985); *Holmes* v. *Schneider Power Corp.*, 628 F. Supp 937 (W.D. Pa. 1986); L. Larson & P. Borowski, supra, § 11.03 [20], at 11-38. This applies to conventional whistleblowing; in refusal-to-work situations, the employee can seek mandamus to require the Secretary to enforce the statute. 29 U.S.C. § 662(d) (1982).

[31] See also Schibley, "The Employment-at-Will Doctrine: Providing a Public Policy Exception to Improve Worker Safety," 16 U. Mich. J.L. Reform 435, 439-40 (1983) (noting deficiencies in DOL personnel and resources); B. Mintz, "OSHA History, Law, and Policy" 342 (1984).

[32] But see 73 U.S. Dep't of Labor Ann. Rep. for FY85 121 (1986) (reference to "substantial increase" in § 11(c) cases, among others).

[33] Solomon & Garcia, "Protecting the Corporate Whistle Blower Under Federal Anti-Retaliation Statutes," 5 J. Corp. L. 275, 283 (1980).

[34] 1984 OSHA Ann. Rep. 56 (1985).

[35] Id.

[36] Teamsters for a Democratic Union, Convoy Dispatch, No. 59, at 3, col. 3 (Feb. 1986).

[37] Id.

[38] In FY85 and FY86, the full MSHRC decided 11 cases of safety complaints or refusals to work. Three cases involved both kinds of discrimination, 5 involved only safety or health complaints, and 3 involved only a refusal to work. Letter from L. Joseph Ferrara, General Counsel, MSHRC, to the author, Oct. 31, 1986.

[39] Testimony of Hon. Nahum Litt, Chief Judge, OALJ, Tr. 45-46.

[40] See Letter from James Y. Callear, Freedom of Information Officer, NLRB, to the author, Sept. 4, 1986. For example, in 1985, the Board decided 8 cases involving safety-based refusals to work.

[41] Off. of Special Counsel Ann. Rep. for FY85 15 (1985).

[42] See *Paul* v. *FMSHRC*, No. 85-1801 (D.C. Cir. Feb. 27, 1987) (mining engineer held not a miner). Another controversial issue of coverage involves the application of environmental whistleblower provisions to prison inmates. See Wash. Post, Feb. 12, 1987, at A25, col. 3 (noting OALJ ruling that federal inmate is protected by Clean Air Act antiretaliation section).

[43] See, e.g., Department of Energy Order No. 5483.1A; In re Mestres, Department of Energy Spec. App. Bd. (Dec. 27, 1984), noted in Wash. Post, Jan. 29, 1985, at A17, col. 1. Protection may also be afforded under contractual provisions. See Testimony of James E. Jensen, Tr. 107 (TVA).

[44] 132 Cong. Rec. H2710 (daily ed. May 14, 1986). Rep. Markey proposed debarring the employer.

[45] Pub. L. No. 99-661, § 942, Stat., adding 10 U.S.C. § 2409.

[46] See N.Y. Times, Sept. 21, 1986, at 1, col. 1 and 36, col. 2 (claim of discharge in retaliation for refusing to sign report that omitted details on flaws in new Army troop carrier).

[47] Federal Government Contractors Personnel Protection Act of 1986, S. 2516, 99th Cong., 2d Sess. (1986). S. 2516 would have created a federal cause of action, enforceable by the individual in district court, for any reprisal against an officer or employee of a government contractor for disclosing to an agency information the individual "reasonably believes indicates . . . a substantial and specific danger to public health or safety." The agency head would also have been empowered to impose civil penalties of up to $500,000 per reprisal, subject to an on-the-record APA hearing with judicial review in district court.

[48] Letter from John F. Sherman III, Assistant Gen'l Counsel, New England Power Service Co., to the author, Dec. 15, 1986.

[49] In one case, quoted in S. Kohn, supra, at 28, the Labor Department found that disclosures to news media were also protected under the WPCA. See also Kohn & Carpenter, "Nuclear Whistleblowing Protection and the Scope of Protected Activity under Section 210 of the Energy Reorganization Act," 4 Antioch Ln. 73, 86-89 (1986).

[50] Compare *Brown & Root, Inc.* v. *Donovan*, 747 F. 2d 1029 (5th Cir. 1984), with *Kansas Gas & Elec. Co.* v. *Brock*, 780 F. 2d 1505 (10th Cir. 1985), cert. denied, 92 L. Ed. 2d 724 (1986), and *Mackowiak* v. *University Nuclear Systems, Inc.*, 735 F. 2d 1159 (9th Cir. 1984). See also *Wheeler* v. *Caterpillar Tractor Co.*, 108 Ill. 2d 502, 485 N.E. 2d 372, cert. denied, 90 L. Ed. 2d 187 (1986).

[51] S. Kohn, supra, at 28-29 (collecting cases).

[52] Meyers Industries, Inc., 281 NLRB No. 118, at 19 (Sept. 30, 1986), pet. for review filed sub nom. *Prill* v. *NLRB*, No. 86-1675 (D.C. Cir. Dec. 11, 1986). See generally Fasman, "Labor Board Adopts Conservative View on Employee Rights," Legal Times, Nov. 10, 1986, at 12.

[53] The Supreme Court has recognized that "parties may have a choice of federal remedies," *Connell Construction Co.* v. *Plumbers & Steamfitters Local Union 100*, 421 U.S. 616, 635 n. 17 (1975), but one wonders whether dual federal remedies are necessary in the whistleblowing area. If federal whistleblowing legislation were reorganized as recommended infra, there would be less need to be concerned about limitations on the gloss applied to the NLRA, and no need for two federal agencies to address a single issue.

[54] Id. Meyers Industries, supra, at 19.

[55] *Prill* v. *NLRB*, No. 86-1675 (D.C. Cir. filed Dec. 11, 1986).

[56] See Table 3 infra. While the statute is silent, the Secretary of Labor has construed the ERA to protect good faith reasonable refusals to work, *Pensyl* v. *Catalitic Inc.*, No. 83-ERA-2 (SOL Jan. 13, 1984), on the theory that the ERA and FMSHA are in pari materia. Slip op. at 5.

[57] See generally Nothstein, "Employee Refusals to Work," Labor (Fall 1982).

[58] *NLRB* v. *City Disposal Systems, Inc.*, 465 U.S. 822 (1984).

[59] Meyers Industries, Inc., supra, at 20.

[60] 29 U.S.C. § 143 (1982).

[61] 29 C.F.R. § 1977.12(b)(2) (1986).

[62] 445 U.S. 1 (1980).

[63] E.g., *Gateway Coal Co.* v. *United Mine Workers*, 414 U.S. 368 (1974) (requiring subjective good faith and objective reasonableness under LMRA). FMSHA § 815(c) has been held to apply refusals to work based on a reasonable, good faith belief that the safety of another employee will be endangered. *Consolidation Coal Co.* v. *FMSHRC*, 795 F.2d 364 (4th Cir. 1986).

[64] Compare *Richter* v. *Baldwin Associates*, No. 84-ERA-09/10/11/12 (SOL Mar. 12, 1986) (pro se complaint, detailed pleading not required), with Testimony of Mozart G. Ratner, Tr. 100-01.

[65] The FLSA is not listed on the chart because, although the child labor provisions of that legislation have a health and safety component, retaliation cases under those provisons are virtually unheard of.

[66] Tr. 40-41, 73; GAP-TLPI Testimony at 11.

[67] Letter from Julie Fosbinder, Teamsters for a Democratic Union, to Jeffrey S. Lubbers, Dec. 1, 1986 (referring to Bureau of Motor Carrier Safety, Dep't of Transportation.)

[68] See Energy Reorganization Act of 1974, § 2(c), Pub. L. No. 93-438, 88 Stat. 1233.

[69] Under DoD87, investigations are done by the IG, thus providing a measure of independence from the procurement agency. On the other hand, the IG's report simply goes to the Secretary, who naturally has ultimate responsibility for procurement.

[70] See Table 7 infra.

[71] See 29 C.F.R. § 18.12 (1986) (amici restricted to filing briefs).

[72] 10 C.F.R. § 50.7(c) (1986).

[73] The NRC has also taken this step. 10 C.F.R. § 50.7(e) (1986). The Wage and Hour Division has imposed other notice-posting requirements by regulation. E.g., 29 C.F.R. § 500.76(d)(1) (1986) (MSAWPA). See also id. § 516.4 (FLSA); *id.* § 1903.2(a) (OSHA); 42 U.S.C. § 20003-10 (1982) (EEOC).

[74] Testimony of Kennedy P. Richardson, Tr. 57-609; See also Letter from Kennedy P. Richardson to Jeffrey S. Lubbers, Dec. 2, 1986 suggesting, in the alternative, that the 30-day limit for WHD investigations be precatory).

[75] Cf. 42 U.S.C. § 2000e-5(f)(1) (1982) (aggrieved person may institute civil action if EEOC dismisses complaint or fails to sue within 180 days of filing of charges.)

[76] Testimony of Stephen M. Kohn, Tr. 84. But see Letter from Kennedy P. Richardson to Jeffrey S. Lubbers, Dec. 2, 1986 at 2-3: "The hypothesis that the Wage and Hour Division is necessary to induce private attorneys to prosecute Section 210 cases is refuted by the fact that no such inducement has ever been necessary for common law wrongful discharge claims and the fact that section 210 authorizes the administrative law judge to award attorney's fees which may well exceed what the attorney would otherwise receive under a typical contingent fee agreement. Nor is the Wage and Hour Division investigation necessary to 'screen out' frivolous cases since most private attorneys will decline to undertake cases with no plausible merit."

[77] See Testimony of Sen. Charles E. Grassley, Tr. 14. 29 C.F.R. § 516.4 (1986). Another approach might be to encourage or require professionals such as engineers to avail themselves of professional societies' safety committees when ethical issues arise. Unfortunately, these mechanisms are not well known. See Lindorff, *"Engineers' Duty to Speak Out,"* The Nation, June 28, 1986, at 880. In addition, employees often do not have the luxury of being able to formulate a request for an opinion, and committees such as these lack the tools to find needed facts on issues that are often hotly contested.

[78] See generally Wargo, *"Tracking Employee Concerns,"* 32 Nucl. Ind. No. 1, 3 (Jan. 1985).

[79] *Durham* v. *Butler Service Group.* No. 86-ERA-9 (OALJ 1986), discussed in *Safety Concerns Programs Challenged by Intervenors*, 33 Nnd. Ind. No. 6, 16-17 (June 1986). Access to documents obtained under the SAFETEAM program marketed by a subsidiary of the Detroit Edison Co., see generally Heffner, "Limiting Risk: Improving Public Perception of Nuclear Plant Safety Through SAFETEAM" (remarks at American Nuclear Society Annual Meeting, Nov. 12, 1985), was permitted, subject to a protective order, in Texas Util. Elec. Co (Comanche Peak Stream Elec. Station, Units 1 & 2), Dkt. Nos. 50-445 to 446 (A.S.L.B. Dec. 23, 1985).

[80] See Letter from Kennedy P. Richardson to Jeffrey S. Lubbers, Dec. 2, 1986, at 2.

[81] Id.

[82] Applicable procedural regulations appear in 29 C.F.R. Pt. 24 (1986). See generally S. Kohn, supra, chs. 1, 5-6, 8-9.

[83] See 5 U.S.C. § 557(c) (1982); 24 C.F.R. § 24.6 (1986).

[84] Testimony of Stephen M. Kohn, Tr. 70-71.

[85] See 73 U.S. Dep't of Labor Ann. Rep. for FY85 174 (1986) (noting survey performed by IG). As of October 1, 1986, that office reports to the Undersecretary rather than the Solicitor of Labor. Testimony of Judith E. Kramer, Tr. 21.

[86] Letter from Mozart G. Ratner to Jeffrey S. Lubbers, Dec. 10, 1986, at 2. The suggestion for an appellate panel appears to contemplate that the panel's jurisdiction would be nondiscretionary and that its decisions would not be subject to further review by the Secretary of Labor. An alternative might be to have a panel to hear argument on behalf of the Secretary, as was formerly done in connection with merchant marine disciplinary proceedings. See Fidell, "Improving Competence in the Merchant Marine: Suspension and Revocation Proceedings" 45 Mo. L. Rev. 1, 23 at n.151 (1980).

[87] OSHA Inst. CPL 245A, ¶ 6 (Mar. 8, 1984).

[88] S. Kohn, supra, at 174 citing *Taylor* v. *Brighton Corp.*, 616 F.2d 256, 258 (6th Cir. 1980).

[89] 30 U.S.C. § 815(c)(2) (1982); T. Means, "Discrimination and Miners' Rights Under the Federal Mine Safety and Health Act of 1977" 21 & n.105 (1984).

[90] Wage & Hour Div., Field Operation Handbook § 52x03(e).

[91] 29 C.F.R. §§ 1978.107-.108, 51 Fed. Reg. 42093-94 (1986).

[92] *E.g.*, 15 U.S.C. § 2622(b)(2)(A)(1982)(TSCA); 42 U.S.C. § 5851)(b)(2)(A)(1982)(ERA); 42 U.S.C. § 7622 (b)(2)(A)(1982)(CAA); 42 U.S.C. § 300J-9(i)(2)(B)(i)(1982)(SDWA); see also 29 C.F.R. § 24.6(b)(1) (1986).

[93] Compare S. Kohn, supra, at 3 & n.15, and Letter from Julie Fosbinder, Teamsters for a Democratic Union, to Jeffrey S. Lubbers, Dec. 1, 1986, at 2 (noting delays of up to 600 days in processing STAA complaints), with Brief for Appellants at 49 n.26, *Brock* v. *Roadway Express, Inc.*, 85-1530 (U.S.) (suggesting that prolonged delay in secretarial decision is not typical under STAA), and U.S. Dep't of Labor, Off. of Administrative Law Judges, "Summary of "Traditional" Labor Cases Adjudicated by the Office of Administrative Law Judges" 56-57 (1984) (postponents granted only for compelling reasons; time constraints in whistleblower cases "uniquely restrictive"). In one case arising under the ERA, it took the Wage and Hour Division over eight months to conclude that the 30-day statute of limitations barred the complaint. *Rose* v. *Sec'y of Labor*, 63 Ad.L.2d 889, 892 (6th Cir. 1986) (Edwards, J., concurring). DOL regulations call for the investigation to be completed in 30 days.

[94] These periods are treated as directory, i.e., precatory. See e.g., 29 C.F.R. § 1978.114, 51 Fed. Reg. 42095 (1986).

[95] GAP-TLPI Testimony at 4-6; Testimony of Stephen M. Kohn, Tr. 71-72.

[96] GAP-TLPI Testimony at 4 & 6 n.13; Galen, "An Ethical Furor Over a Witness," Nat'l L.J., Dec. 22, 1986, at 3.

[97] Tr. 84-86; see also id. at 97 (testimony of Mozart G. Ratner, dubitante).

[98] 29 C.F.R. § 24.5(e)(4) (1986).

[99] E.g., Atomic Energy Act §§ 161(c), 233, 42 U.S.C. § 2201(c), 2281 (1982); see generally 3 B. Mezines, J. Stein, & J. Gruff, "Administrative Law" § 21.02 (G. Mitchell rev. 1985); 1. K. Davis, "Administrative Law Treatise" § 4.6 (2d ed. 1978); Fed. R. Civ. P. 81(a)(3).

[100] See *Industrial Union Dep't* v. *NLRB*, 459 F.2d 1329, 1336 (D.C. Cir. 1972).

[101] Id. at 1339.

[102] E.g., *EEOC* v. *K-Mart Corp.*, 694 F.2d 1055, 1064 (6th Cir. 1982).

[103] See, e.g., *Hasan* v. *Nuclear Power Services, Inc.*, No. 86-ERA-2 (OALJ Sept. 25, 1986) (disqualifying counsel).

[104] See S. Kohn, supra, at 61-62 (collecting cases).

[105] *DeFord* v. *TVA*, No. 81-ERA-1 (DOL Apr. 30, 1984), following remand from *DeFord* v. *Secretary of Labor*, 700 F.2d 281 (6th Cir. 1983).

[106] *English* v. *General Elec. Co.*, No. 85-ERA-2 (ALJ Aug. 1, 1985), noted in N.Y. Times, Aug. 4, 1985, at 23, cols. 1, 6.

[107] See Table 6 infra; *Landers* v. *Commonwealth-Lord Joint Venture*, 83-ERA-5, ALJ op. at 17 (1983), noted in S. Kohn, supra, at 64 & n.18. Under several of the statutes, exemplary damages may be awarded if a civil action is brought to secure compliance with the Secretary's order. See 15 U.S.C. § 2622(d) (1982) (TSCA); 42 U.S.C. § 300J-9(i)(4) (1982) (SDWA); 42 U.S.C. § 5851(d) (1982) (ERA); 42 U.S.C. § 7622(d) (1982) (CAA).

[108] *Brock* v. *Roadway Express, Inc.*, No. 85-1530 (U.S.) (pending); see also *Southern Ohio Coal Co.* v. *Donovan*, 774 F.2d 693 (6th Cir. 1985).

[109] See 10 C.F.R. § 50.7(c) (1986).

[110] Letter from A.B. Beach, Dep. Dir., Enforcement Staff, Off. of Inspection of Enforcement, NRC, to Jeffrey S. Lubbers, Dec. 10, 1986.

[111] See, e.g., *Leber* v. *Pa. Dept. of Environmental Resources*, 780 F.2d 372 (3d Cir.), cert. denied, 106 S.Ct. 3294 (1986).

[112] The fact that a § 11(c) case must be brought by the government who harms employees by rendering inapplicable any statute of limitations. See, e.g., *Marshall* v. *Intermountain Elec. Co.*, 614 F.2d 260 (10th Cir. 1980).

[113] The belief that nothing will be done to correct the problem a whistleblower discloses tends to discourage whistleblowing. Testimony of Sen. Charles E. Grassley, Tr. 12; MSPB, "Whistleblowing and the Federal Employee" 27-31 (1981), cited in Martin, "The Whistleblower Revisited," 8 Geo. Mason L. Rev. 123 (1985).

[114] 47 Fed. Reg. 54585 (1982), discussed in *Kansas City Gas & Elec. Co.* v. *Brock*, 780 F.2d 1505, 1509-10 (1st Cir. 1985), cert. denied, 92 L.Ed.2d 724 (1986). See also 29 C.F.R. § 24.4(a) (1986) (program ageny to receive copy of all complaints).

[115] GAP-TLPI Testimony at 10-11, discussing *Ryan* v. *Brock*, No. 86-4058 (2d Cir. 1986) (ordering DOL to reopen ERA case on basis of NRC report).

[116] See 40 Fed. Reg. 26083 (1975), reproduced in OSHA Inst. Dis. 4A App. I, at I-2 (Aug. 25, 1985).

[117] 45 Fed. Reg. 6189 (1980).

[118] Testimony of Stephen M. Kohn, Tr. 69-70.

[119] See generally Letter from Anthony J. McMahon, Chief Counsel, Federal Highway Admin., to Marshall J. Breger, Chairman, Administrative Conference, Sept. 29, 1986.

[120] In some instances, two remedial programs may work at cross purposes. For example, in *Thomas* v. *TVA*, No. SLO7528610208 (MSPB May 9, 1986), an MSPB administrative law judge overturned the dismissal of a supervisor at a nuclear power plant who had been found by TVA to have discriminated against one of his supervisors. Although the supervisor had invoked the protection of the ERA, he did so after the statute of limitations had expired. TVA nonetheless took disciplinary action based on the supervisor's allegations, and it was that action that the MSPB proceeding set aside.

[121] Cf. N.Y. State-City Comm'n on Integrity in Government, "Report and Recommendations on Whistleblowing Protection in New York" 5 (Oct. 8, 1986) ("complainant should be entitled to be informed of the final disposition of his complaint").

[122] Testimony of Stephen M. Kohn, Tr. 70.

[123] Tr. 76.

[124] See generally 5 U.S.C. §§ 555(b), 706(1) (1982) (agencies to conclude matters within reasonable time; reviewing courts empowered to compel agency action unreasonably withheld); e.g., *Public Citizen* v. *Dep't of Health & Human Services*, 632 F.Supp. 220, 226 (D.D.C. 1986).

[125] See generally Testimony of Anthony Z. Roisman, Tr. 76-83.

[126] See generally Fidell, "Nuclear Whistleblowing Issues in 1985" (remarks at American Nuclear Society Annual Meeting, Nov. 12, 1985), at 6, citing *Lang* v. *Pacific Gas & Elec. Co.*, No. 60185 (San Luis Obispo Co., Cal., Super. Ct.), on removal, Civil No., 85-6191HLH (C.D. Cal.); *Hermann* v. *H.P. Foley Co.*, No. 59672 (San Luis Obispo Co., Cal., Super. Ct.), on removal, Civil No. 85-2246-RG (Bx) (C.D. Cal. May 20, 1985); *Stokes* v. *Bechtel Corp.*, Civil No. C-84-8038 (N.D. Cal.), and No. 830446 (San Francisco Co., Cal., Super. Ct.); *Parks* v. *Bechtel Corp.*, Civil No. C-84-8037-WHO (N.D. Cal.); *Raymond Kaiser Engineers* v. *Superior Court*, No. 8027975 (Cal. Dist. Ct. App. Aug. 23, 1984); *Berstler* v. *Hirsch*, Civil No. 83-6122 (E.D. Pa. July 10, 1983); *Atchison* v. *Brown & Root, Inc.*, No. 83-29889 (Harris Co., Tex., Dist. Ct.), on removal, Civil No. H85-3568 (S.D. Tex.). Stokes and Parks were remanded to the California courts. *Stokes* v. *Bechtel North American Power Corp.*, 614 F.Supp. 732, 735 n.1 (N.D. Cal. 1985).

[127] 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).

[128] *Anaya* v. *Hansen*, 781 F.2d 1, 7 & n.8 (1st Cir. 1986).

[129] Before any recommendation is made with respect to the allocation of responsibility for judicial review, it is assumed that the Conference would secure the views of the Judicial Conference of the United States and the Federal Judicial Center.●

By Mr. DOMENICI (for himself, Mr. BOREN, Mr. NICKLES, Mr. JOHNSTON, Mr. WALLOP, Mr. BREAUX, Mr. SIMPSON, Mr. BINGAMAN, and Mr. MCCLURE):

S. 2096. A bill entitled the United States-Canada Free Trade Agreement Oil and Natural Gas Incentive Equalization Act of 1988;" to the Committee on Finance.

CANADIAN FREE TRADE AGREEMENT INCENTIVE EQUALIZATION ACT

● Mr. DOMENICI. Mr. President, in the months ahead the Congress will consider the United States-Canada Free Trade Agreement. It is an historic agreement, one creating a single market that reaches above the Arctic Circle to the Rio Grande.

These landmarks give the mind's eye a vivid description of just how far this agreement reaches. But dollar figures provide an equally impressive measurement of the significance of the agreement. The bilateral trade between the United States and Canada in goods totaled $124 billion in 1986.

American exporters to Canada exceed our exports to the entire European Community. They are more than double those to Japan. In fact, our trade with the province of Ontario alone exceeds our trade with Japan.

Clearly, this is a very important agreement and deserves the careful study of every Senator.

I am today introducing legislation that I believe is absolutely essential if this agreement is to prove effective and fair.

The United States and Canada are more than neighbors. We are friends and allies. President Reagan characterized the relationship as "kin who together have built the most productive relationship between any countries in the world today." For the United States, close economic ties with its largest trading partner are important; for Canada, with three-quarters of its trade going to the United States, those ties are essential.

This agreement would create the largest free trade area in the world. I think the President should be commended for pursuing the idea. I believe firmly that as the United States and the world wrestle with how to best compete in a global market, this bilateral agreement is likely to prove an invaluable blueprint.

This agreement is even more important because it will be the first bilateral agreement since John Nesmith told us that a major "megatrend" of the future would be competition in a global economy.

The handling of this agreement is critical to our future because it will be the model for agreements with other major trading partners. Its strengths and weaknesses will be magnified because they will almost certainly be repeated elsewhere. They will be repeat-

ed simply because we are at a critical juncture of moving into a global economy. This agreement will be extensively discussed in the new trade round. It will be the "mark-up document" or "terms of reference" for beginning free trade agreement negotiations with Mexico, Japan, China, or other key trading partners.

For that reason we can't afford to make mistakes, or to overlook the shortcomings of the agreement. We must hone this agreement, the implementing language, and policies we pursue as a result of the agreement as closely as we can, because this agreement will be the precedent.

Secretary Baker testified before the House last week, that the United States was able to get 9 out of 10 negotiating objectives. That's pretty good. But it isn't good enough when you think about this agreement as the prototype for our transition into a global economy.

We now have the text of the agreement. We know what it says. I have been told by administration officials that they can't go back and renegotiate weak provisions. I met with the Canadian Ambassador and he said that it isn't politically possible for his Government to "give" on any additional areas. The text of the agreement must stand or fall as written.

The Congress will be asked to vote on this agreement, without amendments. Is this a good agreement? Yes or no?

My law professor used to say that in a good agreement, all of the "whereases" lead logically to the "therefores."

By this standard, the Free Trade Agreement is not a good agreement. Chapter nine is the energy chapter of the agreement. In a most glaring manner, the "whereases" fail to produce the "therefores."

While the energy chapter is only 1 of 20 chapters in the agreement, United States-Canada trade in energy is the largest in the world. Its value exceeds U.S. bilateral trade with nearly all of our other trading partners.

The major purposes that are stated for this agreement include the following:

Promoting productivity, full employment, and steady improvement of living standards for citizens employed in the oil and natural gas industries in their respective countries;

Ensuring a predictable commercial environment for business planning and investment; and

Strengthening the competitiveness of United States and Canadian firms in global markets.

The agreement's further objective is to create the proverbial "level playing field." Under the agreement, all tariff barriers would come down, and the United States and Canada would become a single market operating under the same rules.

That sounds fabulous. But the one negotiating objective the United States failed to obtain from the Canadians was any significant concessions on subsidies.

In the oil and gas exploration area, these subsidized incentives are very significant. For example:

Canadian "royalty holidays," when royalty payments are suspended or eliminated, are provided for production from any wells spudded between October 1986 and November 1989. These holidays are available for exploration wells and the holidays can last for up to 5 years. By contrast, the United States has Federal and State royalty rates that range from 12½ to 25 percent.

One U.S. producer has calculated that the total U.S. royalty burden stands between 22 and 25 percent, counting Federal, State, county and even school board levies. In contrast, he estimates the burden on small to medium sized independents in Alberta, Canada—the source of more than four-fifths of Canadian oil and gas production—stands between zero and 5 percent.

Is this a level playing field?

I ask unanimous consent that an October 26, 1987, article that appeared in the Natural Gas Intelligence Newsletter appear in the RECORD following my remarks. It goes into more detail on this particular point.

Alberta Royalty Tax Credit Program for small producers was enriched by $67 million in 1987 and Saskachewan introduced a price sensitive royalty rate structure resulting in reduced royalties when prices are low, and a flat royalty of 1 percent for wells producing less than 5 barrels per day. The United States has nothing comparable.

Is this a level playing field?

Canada allows up-front tax deductions on all geological and geophysical costs. The United States requires them to be capitalized over the life of the well.

Is this a level playing field?

Under the agreement, restrictions on United States investment in Canadian oil and gas exploration companies will remain in place. The United States has no comparable restrictions.

Is this a level playing field?

And there is lots more. Canada repealed its windfall profits tax. The United States has yet to do so. That means that for every $1 the price of oil goes above $18 a barrel in the United States, 70 percent of the price increase goes to the U.S. Treasury. With exploration at near a record low, it would be better if that money were being spent on oil and gas exploration.

And the Canadian Exploration and Development Incentive Program provides direct cash assistance to the petroleum industry. For every $2 of exploration and development dollars a Canadian firm puts up, the Candian Government puts up $1 up to $10 million per firm. We have nothing comparable.

Are these indicators of fairness, a level playing field?

The agreement allows the United States and Canada to keep in place its existing incentives and to enact additional incentives for oil and gas exploration, development, and related activities in order to maintain the reserve base for these energy resources.

If you agree with me that this clear lack of parity is a major weakness of the agreement, I urge that you join me in sponsoring this bill, the "U.S.-Canada Free Trade Agreement Oil and Gas Incentive Equalization Act of 1988."

I would have preferred that the negotiators go back and eliminated the subsidies and other incentives so that the oil and gas companies on either side of the border can have comparable government subsidies or incentives.

But that is not possible. The only alternative that I can propose is to pass legislation before or at the same time as the Free Trade Agreement, legislation that provides catch-up incentives for the U.S. oil and gas industries.

My bill specifically seeks to conform the intent of the agreement with the realities of the oil and natural gas marketplace in North America. It seeks to provide parity between the tax burdens and the exploration and development incentives that are provided by the U.S. Government and similar burdens and benefits conferred upon Canadian companies by the Canadian and provincial governments.

This equalization is absolutely essential if the intent of the U.S.-Canada Free Trade Agreement is to be carried out successfully.

I wish to reiterate: This is second best policy. But it is vital policy if we are ever going to get the Canadians to eliminate their subsidies. If they have substantial subsidies and we have few, we have nothing to bargain with.

The skeptics might say that the U.S. industries could bring a countervailing duty case. Yet the agreement replaces article III judges with a politically appointed panel for binding, final determination of such cases. I am not sure an industry that has been suffering for the past 4 years can afford that kind of a political risk.

As a nation, we can't leave the question of whether we will have an oil and gas industry to five political appointees.

We can't afford to wait. To give my colleagues some additional perspective, I ask unanimous consent that the most recent numbers dealing with the oil and gas industry in the United States be printed at the point in the RECORD.

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

OIL AND GAS: NATIONAL FACTS

OIL AND GAS INDUSTRY

As of February 1987, the U.S. rig count was 906. In 1987, since its peak in 1981 at almost 4,000 rigs, the rig count had dropped by 80 percent.

Well completions are estimated at 37,620 in 1986, the lowest level recorded since 1973. As compared to the peak in 1982, well completions are off by almost 60 percent.

Footage drilled amounted to 168 million feet in 1986, a one-third drop from the 1985 total, and a 50 percent decline from the 1981 total.

Employment has declined by 350,000 jobs since 1981, a 38 percent drop, with more than 50% of this decline occurring in 1986. One of four of the nation's petroleum geologists is out of a job.

Capital expenditures for exploration and production dropped by 50 percent in 1986, from $33.3 billion in 1985 to $16.4 billion in 1986.

OIL PRICES

The spot price for West Texas Intermediate was $17.65 a barrel on February 8, 1988. While this is a slight improvement from the $15.53 per barrel estimated average price for 1987, it's still a major drop from the levels of the early 1980s.

As compared to the peak level of $31.77 per barrel in 1981, domestic oil prices are down 44 percent.

NATURAL GAS PRICES

Natural gas wellhead prices are estimated to average $1.78 per thousand cubic feet (MCF) in 1987, an 8 percent drop from the 1986 levels.

Average wellhead prices have been declining since they peaked in 1984 at $2.66 per MCF.

RESERVES

Over 50 percent of the world's oil reserves are in the Middle East. While the U.S. consumes one-fourth of the world's oil production, it only holds 4 percent of the world's oil reserves.

1986 Crude oil reserve additions dropped by 46 percent from the previous year. Only 49 percent of U.S. annual oil production was replaced with new reserves in 1986.

1986 natural gas reserve additions dropped by 20 percent from the previous year. Only 88 percent of U.S. gas production was replaced with new reserves in 1986.

The Congressional Research Service (CRS) has estimated that U.S. crude oil reserves could decline 18.4% by 1995 if current drilling rates continue.

19,000 stripper wells were abandoned in 1986. Stripper wells account for 15 percent of U.S. production.

Mr. DOMENICI. Mr. President, I also ask that a copy of a summary of the bill, as well as a copy of the bill itself, be printed at this point in the RECORD. I would also ask unanimous consent that a copy of a February 14, 1988, Albuquerque Journal article written by Sherry Robinson, assistant business editor appear in the RECORD.

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

S. 2096

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

SEC. 101. SHORT TITLE.

This Act may be cited as the "Canadian Free Trade Agreement Incentive Equalization Act."

SEC. 102. FINDING AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States and Canada should strengthen the unique and enduring friendship between their two nations;

(2) the United States and Canada should promote productivity, full employment, and steady improvement of living standards for citizens employed in the oil and natural gas industries in their respective countries;

(3) the United States and Canada should create an expanded and secure market for oil and natural gas, goods and services produced in their territories;

(4) the United States and Canada should adopt clear and mutually advantageous rules governing their trade in all areas including oil and natural gas;

(5) the United States and Canada should ensure a predictable commercial environment for business planning and investment in the oil and natural gas industries;

(6) the United States and Canada should strengthen the competitiveness of United States and Canadian oil and natural gas firms in global markets;

(7) the United States and Canada reduce government-created trade distortions while preserving the two countries' flexibility to safeguard the public welfare;

(8) the United States and Canada should build on their mutual rights and obligations under the General Agreement on Tariffs and Trade and other multilateral and bilateral instruments of cooperations;

(9) the United States and Canada should contribute to the harmonious development and expansion of world trade and to provide a catalyst to broader international cooperation; and

(10) that since the purposes and objectives of this Act are identical to those stated in the U.S. Canada Free Trade Agreement except that they relate specifically to the oil and natural gas industry, it is the intent of Congress that this Act be considered, and passed prior to, or at the same time the Congress considers the Canada Free Trade Agreement.

SEC. 103. PURPOSE.

It is the purpose of this Act to conform the intent of the U.S. Canadian Free Trade Agreement with the realities of the oil and natural gas market place in North America; and to provide parity between tax burdens and exploration and development incentives provided by the U.S. Government and similar burdens and benefits conferred upon Canadian companies by the Canadian and provincial governments. This equalization is necessary if the intent of the U.S. Canada Free Trade Agreement is to be successfully carried out.

SEC. 104. TABLE OF CONTENTS.

SEC. 105.—REPEAL WINDFALL PROFITS TAX TO CONFORM THE U.S. INTERNAL REVENUE CODE WITH THE CANADIAN INCOME TAX ACT WHICH REPEALED THE CANADIAN WINDFALL PROFITS TAX.

(a) Chapter 45 of the Internal Revenue Code of 1986 (referred to in this title as the "Code") is repealed.

(b)(1) Sections 6050C, 6076, 6232, 6430, and 7241 of the Code are repealed.

(2)(A) Subsections (a) of section 164 of the Code is amended by striking paragraph (4), and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.

(B) The following provisions of the Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),

(ii) section 6211(b)(2),

(iii) section 6212(a),

(iv) section 6213(a),

(v) section 6213(g),

(vi) section 6214(c),

(vii) section 6214(d),

(viii) section 6161(b)(1),

(ix) section 6344(a)(1), and

(x) section 7422(e).

(C) Subsection (a) of section 6211 of the Code is amended by striking "44, and 45" and inserting "and 44".

(D) Subsection (b) of section 6211 of the Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of the Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(F) Paragraph (1) of section 6212(c) of the Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(G) Subsection (e) of section 6302 of the Code is amended by striking "(1) For" and inserting "For", and by striking paragraph (2).

(H) Section 6501 of the Code is amended by striking subsection (m).

(I) Section 6511 of the Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of the Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(K) Paragraph (1) of section 6512(b) of the Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Section 6611 of the Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of the Code is amended—

(i) by striking clause (i) in paragraph (1)(B) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

(N) Subsection (a) of section 6862 of the Code is amended by striking "44, and 45" and inserting "and 44".

(O) Section 7512 of the Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle (D) of the Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 of the Code is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of that subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 of the Code is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 of the Code is amended by striking the item relating to section 6430.

(F) The table of contents of part II of subchapter A of chapter 75 of the Code is amended by striking the item relating to section 7241.

(c) The amendments made by this section shall apply to crude oil removed from the premises after the date of the enactment of implementing legislation for the U.S. Canadian Free Trade Agreement.

SEC. 106.—IMPROVED TAX TREATMENT OF GEOLOGICAL, GEOPHYSICAL AND SURFACE CASING COSTS TO PROVIDE PARITY BETWEEN THE U.S. INTERNAL REVENUE CODE AND THE CANADIAN INCOME TAX ACT.

(a) IN GENERAL.—Subsection (c) of section 263 of the Internal Revenue Code of 1986 (relating to intangible drilling and development costs in the case of oil and gas wells and geothermal wells) is amended by inserting before the last sentence the following new sentence: "In the case of oil and gas wells, the tax treatment which applies to the taxpayer's intangible drilling and development costs shall also apply to surface casing costs and to geological and geophysical costs for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2))."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 57(a)(2) of such Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), the term 'intangible drilling and development costs' includes surface casing costs and geological and geophysical costs described in section 263(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act in taxable years ending after the enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 107.—ELIMINATION OF THE NET INCOME LIMITATION RULE AS IT WOULD APPLY TO OIL AND GAS WELLS IN ORDER TO PROVIDE PARITY BETWEEN U.S. INTERNAL REVENUE CODE AND THE CANADIAN INCOME TAX CODE.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by striking out "Such allowance" and inserting in lieu thereof "Except in the case of an oil or gas well, such allowance."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of the implementing for the U.S. Canada Free Trade Agreement.

SEC. 108.—REFORM OF PERCENTAGE DEPLETION TO PROVIDE INCENTIVES IN ORDER TO PARTIALLY OFFSET THE RESOURCE ALLOWANCES PROVIDED BY THE CANADIAN GOVERNMENT.

(a) IN GENERAL.—Paragraph (5) of section 613(c) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(5) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—In the case of production during calendar years beginning after December 31, 1986—

"If the average annual removal price during the calendar year is:	The applicable percentage is:
Less than $10	304
$10 to $15	25
$15 to $20	20
Greater than $20	15

"(B) AVERAGE ANNUAL REMOVAL PRICE.—For purposes of subparagraph (A), the average annual removal price for any calandar year shall be determined by dividing the taxpayer's aggregate production of domestic crude oil or natural gas during such calendar year by the aggregate amount for which such domestic crude oil or natural gas, as the case may be, was sold (determined after application of paragraphs (2), (3), and (4) of section 4988(c)) by the taxpayer."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to production during calendar years beginning after the enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 109.—REPEAL OF TRANSFER RULE TO PROVIDE A "CATCH UP" INCENTIVE FOR U.S. INDUSTRY THAT PAYS SUBSTANTIALLY HIGHER ROYALTIES THAN CANADIAN COMPANIES ON EXPLORATION WELLS.

(a) PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTIES.—

(1) IN GENERAL.—Subsection (c) of section 613A of the Internal Revenue Code of 1986 (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out paragraphs (9) and (10) and be redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(2) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c) of such code, as redesignated by subsection (a), is amended by striking out subparagraphs (C) and (D).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to production after the date of the amendment of this Act in taxable years ending after the date of enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

(b) EXEMPTION OF STRIPPER WELL OIL FROM WINDFALL PROFIT TAX TO APPLY AFTER TRANSFER.—

(1) IN GENERAL.—Subsection (g) of section 4994 of such Code (defining exempt stripper well oil) is amended to read as follows:

"(g) EXEMPT STRIPPER WELL OIL.—For purposes of this chapter, the term 'exempt stripper well oil' means any oil—

"(1) the producer of which is an independent producer (within the meaning of section 4992(b)(1)),

"(2) which is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(3) which is attributable to the independent producer's working interest in the stripper well property."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to oil removed after the date of the enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 110. REPEAL OF RECAPTURE PROVISIONS DEALING WITH DISPOSITION OF OIL, GAS, OR GEOTHERMAL INTERESTS TO PROVIDE "CATCH UP" INCENTIVE FOR U.S. INDUSTRY THAT PAYS SUBSTANTIALLY HIGHER ROYALTIES THAN CANADIAN COMPANIES.

(a) IN GENERAL.—

(1) PROVISIONS IN EFFECT BEFORE TAX REFORM ACT OF 1986.—Section 1254 of the Internal Revenue Code of 1986 (relating to gain from disposition of interest in oil, gas, or geothermal property), as in effect before the amendment made by the Tax Reform Act of 1986, is hereby repealed.

(2) PROVISIONS IN EFFECT AFTER TAX REFORM ACT OF 1986.—Section 1254 of such Code, as in effect after the amendments made by the Tax Reform Act of 1986, is amended—

(A) by striking out "263,616," in subsection (a)(1)(A)(i) and inserting in lieu thereof "616", and

(B) by adding at the end of subsection (a)(3) the following: "The term 'section 1254 property' does not include any oil, gas, or geothermal well."

(b) CONFORMING AMENDMENT.—

(1) Sections 59(e)(5)(A) and 291(b)(3) of such Code are each amended by striking out "263(c), 616(a)," and inserting in lieu thereof "616(a)".

(2) The heading for section 1254 of such Code, as amended by the Tax Reform Act of 1986, is amended by striking out "OIL, GAS, GEOTHERMAL, OR OTHER" and inserting in lieu thereof "CERTAIN".

(3) The item relating to section 1254 in the table of sections for part IV of subchapter P of chapter 1 of such Code is amended to read as follows:

"Sec. 1254. Gain from disposition of interest in certain mineral properties."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after the date of the enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 111.—MARGINAL PRODUCTION CREDIT IN ORDER TO OFFSET EXPLORATION AND DEVELOPMENT CREDITS PROVIDED BY THE CANADIAN AND PROVINCIAL GOVERNMENTS.

(a) Subpart B of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new section:

SEC. 112.—CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS IN ORDER TO OFFSET CASH EXPLORATION AND DEVELOPMENT BONUSES PROVIDED BY THE CANADIAN PROVINCIAL GOVERNMENTS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as credit against the tax imposed by this chapter for the taxable year to the producer of eligible crude oil an amount equal to 10 percent of the qualified cost of each barrel of such oil (or fractional part thereof) produced during the taxable year.

"(b) QUALIFIED COST.—For purposes of this section, the term 'qualified cost' means, with respect to each barrel of eligible crude oil the sum of—

"(1) such barrel's pro rata share of—

"(A) the lease operating expenses (other than business overhead expenses) paid or incurred by the producer of such barrel during the taxable year in which such barrel was produced,

"(B) the amount allowed to such producer for such taxable year for depreciation under sections 167 and 168 with respect to the property used in the production of such barrel,

"(C) the amount allowed to such producer for such taxable year for depletion under section 611 (but not in excess of the adjusted basis of the property), and

"(D) the business overhead expenses paid or incurred during such taxable year by such producer, plus

"(2) the amount of severance tax paid or incurred by such producer with respect to such barrel.

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

"(1) ELIGIBLE CRUDE OIL.—The term 'eligible crude oil' means domestic crude oil which is—

"(A) from a stripper well property within the meaning of the June 1979 energy regulations, or

"(B) heavy oil, or

"(C) oil recovered through a tertiary recovery method.

"(2) OTHER DEFINITIONS.—

"(A) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(B) BARREL.—The term 'barrel' means 42 United States gallons.

"(C) DOMESTIC.—The term 'domestic' when used with respect to crude oil, means crude oil produced from a well located in the United States or in a possession of the United States.

"(D) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(E) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(F) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property of crude oil produced and sold from such property during—

"(i) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(ii) the taxable year had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(G) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the October 1979 energy regulations, or

"(ii) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(II) SEVERANCE TAX.—The term 'severance tax' means a tax imposed by a State or political subdivision thereof with respect to the extraction of crude oil.

"(I) ENERGY REGULATIONS.—

"(i) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Energy Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(ii) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations shall be the terms of the energy regulations as such terms existed on June 1, 1979.

"(iii) OCTOBER 1979 ENERGY REGULATIONS.—The October 1979 energy regulations shall be the terms of the energy regulations as such terms existed on October 30, 1979.

"(iv) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed the greater of—

"(A) the taxpayer's tentative minimum tax liability under section 55(b) for such taxable year determined without regard to this section or,

"(B) the excess of—

"(i) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(ii) the sum of the credits allowable against such tax liability under part IV (other than section 43 and this section).

"(2) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under paragraph (1):

"(A) the taxpayer's tentative minimum tax under section 55(b) for the taxable year, and

"(B) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section).

If the amount of the credit determined under paragraph (1) exceeds the amount described in subparagraph (B) of paragraph (2), then the excess shall be deemed to be the adjusted net minimum tax for such taxable year for purposes of section 53.

"(3) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an oil production credit carryback to each of the 5 taxable years preceding the unused credit year, and

"(ii) an oil production credit carryforward to each of the 3 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year ending prior to January 1, 1987, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 8 taxable years to which such credit may be carried, and then to each of the other 7 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(e) 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.

"(f) TERMINATION OF CREDIT.—No credit shall be allowed under this section for any qualified cost paid or incurred in any tax-

able year beginning after the date which is three years after the date of the enactment of the National Energy Security Act of 1987.".

(b) The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new item:

"Sec. 30. Crude oil production credit for maintaining marginally economic wells.".

(c) The amendments made by this section shall apply to oil produced in taxable years after the date of enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 113. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT TO OFFSET EXPLORATION CREDITS PROVIDED BY THE CANADIAN AND PROVINCIAL GOVERNMENTS.

(a) Section 38(b) of the Code is amended—

(1) by striking "plus" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", plus", and

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

"(6) the crude oil and natural gas exploration and development credit determined under section 43(a).".

(b) Subpart D of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new section:

CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT

"(a) GENERAL RULE.—For purposes of section 38, the crude oil and natural gas exploration and development credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 10 percent of so much of the taxpayer's qualified investment for the taxable year as does not exceed $10,000,000, plus.

"(2) 5 percent of so much of such qualified investment for the taxable year as exceeds $10,000,000.

"(b) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred—

"(1) for the purpose of ascertaining the existence, location, extent, or quality of any crude oil or natural gas deposit, including core testing and drilling test wells,

"(2) for the purpose of developing a property on which there is a reservoir capable of commercial production and such amounts are paid or incurred in connection with activities which are intended to result in the recovery of crude oil or natural gas on such property, or

"(3) for the purpose of performing secondary or tertiary recovery technique on a well located in the United States or in a possession of the United States as defined in section 638.

"(c) TERMINATION OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no credit shall be allowed under this section with respect to expenditures made in any taxable year beginning after the date which is three years after the date of the enactment of the National Energy Security Act of 1987.

"(2) BINDING COMMITMENTS.—Paragraph (1) shall not apply with respect to any qualified investment made pursuant to a binding contract entered into before the date determined under paragraph (1).".

(c) Section 38(c) of the Code is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) EXPLORATION CREDIT MAY OFFSET MINIMUM TAX.—To the extent the credit under subsection (a) is attributable to the application of section 43, the limitation of paragraph (1) shall be the greater of—

"(A) the limitation as determined under paragraph (1), or

"(B) the taxpayer's tentative minimum tax for the taxable year.".

(d) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new item:

"Sec. 43. Crude oil and natural gas exploration and development credit.".

(e) The amendments made by this section shall apply to expenditures paid or incurred in taxable years after the date of enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 115.—IMPORT DEPENDENCE SAFETY NET IN ORDER TO REQUIRE CONGRESS AND THE ADMINISTRATION TO WORK TOGETHER TO ADDRESS IMPORTS WHENEVER DEPENDENCE EXCEEDS FIFTY PERCENT.

(a) Sections 57(a)(2) and 57(b) of the Code are hereby repealed.

(b) The repeal made by this section shall apply to costs paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 114.—REMOVAL OF INTANGIBLE DRILLING COSTS FROM THE ALTERNATIVE MINIMUM TAX TO PROVIDE PARITY BETWEEN U.S. INTERNAL REVENUE CODE AND CANADIAN TAX CODE.

DUTIES OF THE PRESIDENT.

(a) ESTABLISHMENT OF CEILING.—The President shall establish a National Oil, Import Ceiling (referred to in this Act as the "ceiling level") which shall represent a ceiling level beyond which foreign crude and oil product imports as a share of United States oil consumption shall not rise.

(b) LEVEL OF CEILING.—The ceiling level established under subsection (a) shall not exceed 50 percent of United States crude and oil product consumption for any annual period.

(c) REPORT.—(a) The President shall prepare and submit an annual report to Congress containing a national oil security projection (in this Act referred to as the "projection"), which shall contain a forecast of domestic oil and NGL demand and production, and imports of crude and oil product for the subsequent three years. The projection shall contain appropriate adjustments for expected price and production changes.

(2) The projection prepared pursuant to paragraph (1) shall be presented to Congress with the Budget. The President shall certify whether foreign crude and oil product imports will exceed the ceiling level for any year during the next three years.

CONGRESSIONAL REVIEW

The Congress shall have 10 continuous session days after submission of each projection to review the projection and make a determination whether the ceiling level will be violated within three years. Unless disapproved or modified by joint resolution, the Presidential certification shall be binding 10 session days after submitted to Congress.

ENERGY PRODUCTION AND OIL SECURITY ACTIONS

(a) ENERGY PRODUCTION AND OIL SECURITY POLICY.—(1) Upon certification that the ceiling level will be exceeded, the President is required within 90 days to submit legislation to the Congress which shall serve as an Energy Production and Oil Security Policy (in this Act referred to as the "policy"). The policy if enacted shall prevent crude and product imports exceeding the National Oil Import Ceiling.

(2) The Energy Production and Oil Security Policy may include—

(A) oil import fee;

(B) energy conservation actions including improved fuel efficiency for automobiles;

(C) expansion of the Strategic Petroleum Reserves to maintain a 90-day cushion against projected oil import blockages; and

(D) production incentives for domestic oil and gas including tax and other incentives for stripper well production, offshore, frontier, and other oil produced with tertiary recovery techniques.

SEC. 116. REPEALING TAXABLE INCOME LIMITATION ON PERCENTAGE DEPLETION IN ORDER TO PARTIALLY OFFSET THE RESOURCE ALLOWANCES PROVIDED BY THE CANADIAN GOVERNMENT.

(a) IN GENERAL—Paragraph 613(A)(d)(1) is amended by deleting "65 percent" and inserting in lieu thereof "100 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the taxable years beginning after the date of the enactment of the implementing legislation for the U.S. Canadian Free Trade Agreement.

UNITED STATES-CANADA FREE TRADE AGREEMENT—OIL AND NATURAL GAS INCENTIVE EQUALIZATION ACT OF 1988

A bill to be introduced by Senator Domenici, cosponsored by Senators Boren, Nickels, Wallop, Johnston, Breaux, Simpson.

The findings and purposes of the bill are identical to the objectives set forth in the U.S.-Canada Free Trade Agreement, however the findings specifically mention oil and natural gas.

Purpose of the bill is to conform the intent of the U.S.-Canada Free Trade Agreement with the realities of the oil and natural gas marketplace in North America; to provide parity between the tax burdens and the other exploration and development incentives provided in the United States and Canada.

Specifically, the bill includes the following provisions:

Expresses the intent of Congress that this Act be enacted prior to or at the same time as Congress considers the U.S.-Canada Free Trade Agreement.

Repeals the Windfall Profits Tax to conform the U.S. Internal Revenue Code with the Canadian Income Tax Act, which repealed the Canadian Windfall Profits Tax in 1986.

Improves tax treatment of geological, geophysical and surface casing costs to provide parity between the U.S. Internal Revenue Code and the Canadian Income Tax Act.

Eliminates the Income Limitation Rule to assure parity between the U.S. Internal Revenue Code and the Canadian Income Tax Act.

Reforms the percentage depletion allowance to provide incentives to offset resource allowances provided by the Canadian government.

Repeals the Net Transfer Rule to provide a "catch up" incentive since the U.S. industry is required to pay substantially higher royalties than Canadian companies.

Repeals the recapture provisions dealing with disposition of oil, gas, or geothermal property interests in order to provide "catch up" incentives for U.S. industry, which pays

substantially higher royalties than Canadian companies.

Provides a marginal production credit in order to offset exploration credits provided by the Canadian and provincial governments.

Provides a crude oil production credit for maintaining economically marginal wells, a credit that offsets the cash payments made by the Canadian provincial government for exploration and development.

Provides a crude oil and natural gas exploration and development credit to offset exploration and development credits provided by the Canadian and provincial governments.

Eliminates intangible drilling costs as a preference item under the Alternative Minimum Tax in order to provide parity between U.S. Internal Revenue Code and the Canadian tax code.

Establishes a procedure under which the Congress and the Administration work together to implement a plan designed to decrease imports whenever foreign oil dependence exceeds 50 percent.

Repeals the taxable income test for percentage depletion in order to partially offset the resource allowances provided by the Canadian Government.

[From the Albuquerque Journal, Feb. 14, 1988]

AGREEMENT CAN SPARK BIG PAYOFFS—CANADA SWAPS RESOURCES FOR UNITED STATES MARKET ACCESS

[Note.—The Albuquerque Journal was one of the 15 U.S. newspapers to be represented on a four-day, four-city tour of Canada to learn about the U.S.-Canada Free Trade Agreement.]

(By Sherry Robinson)

OTTAWA.—The world's biggest trading partners hope to weather a storm of competition and protectionism under the same umbrella—the historic U.S.-Canada Free Trade Agreement signed last month by leaders of both countries.

Essentially the agreement swaps Canada's wealth of resources for our lucrative markets. The payoff for Canada is immediate. The United States' big friend to the north exports 30 percent of its products (we export 10 percent) and needs new markets to sustain its growth. Canadians also worry about protectionist leanings in Congress.

The United States would gain a new market the size of California and see tariffs twice as high as its own, on average, erased. Big U.S. rewards would be down the road when the oil and gas glut subsides and a new energy crisis threatens.

Members of Congress and Parliament must approve the agreement.

In New Mexico, the agreement heralds certain disaster for the uranium industry and more pressure for other beleagered industries—natural gas, copper, coal and utilities. It also holds some new prospects for the state's high tech, services, manufacturing and agricultural sectors.

The 25,000-page document calls for both countries to drop tariffs over the next 10 years and establishes a binational panel to settle disputes. The agreement also:

Opens up the service sector, including computers and telecommunications.

Offers financial institutions of both countries equal privileges.

Liberalizes restrictions on investments in Canada.

Eliminates the Canadian embargo on used cars.

Opens wheat trade when subsidies by both countries are equal.

Increases Canadian ceilings on U.S. chicken, turkey and eggs.

Exempts beef producers from import laws of the other country.

Allows freer entry for business travelers.

All segments are not open for business, however. While many new players are thrown into competition, some would still huddle behind barricades. Those not so protected are crying foul.

NEGOTIATIONS: HARD SLUGGING

"Our people were way ahead of them on everything. You'd think the United States was an underdeveloped country alongside us in terms of the way this negotiation went."

Canada's chief negotiator, Simon Reisman, was quoted in the International Trade Reporter saying U.S. negotiators "had their pants down" in the talks held last fall.

Reisman, says Toronto economist John Crispo, "is an arrogant son of a bitch. And I wouldn't want anyone else to represent us in negotiations with the United States."

While Reisman claims the agreement favors Canada 3-to-1, leaders of both nations were using the phrase "win-win."

Canadians are looking forward to selling more electricity, wheat, beef, pork, oil and natural gas. Americans see opportunities for high tech companies, furniture, paper, machinery, fruit, vegetables, wine and clothing.

Also telling is what they left out.

Canadians insisted that their periodicals, film industry, book publishers and television be exempt. The United States refused to touch its sugar policy. The American lumber industry wants to buy Canadian round logs, but Canadians wouldn't include them, nor would they allow U.S. plywood to enter their country. The United States balked at opening defense procurement. Canadians wouldn't ease restrictions on truck transportation, and the United States backed away from maritime.

Both put wine and distilled spirits on the table but not beer. Neither would meddle with their dairy industries.

Disputes over Canadian energy subsidies and U.S. grain subsidies were so sticky that both sides agreed to hammer them out later.

Nobody even broached the subject of water.

The agreement, said Minister of Trade Pat Carney, is "the result of two years of very hard slugging."

Of all the Canadian exemptions, the touchiest is culture. Forever fearful of being swamped by American culture, Canadians have chosen to protect their media, film makers and book publishers.

"If there's been a blind spot in the negotiations, it's been there," said Tom d'Aquino, president of the Business Council on National Issues, a group like the U.S. Business Roundtable. "You must consider, your culture is always being exported, and relatively little Canadian culture is exported. Without protection, our cultural industries would not be viable."

SORTING OUT SUBSIDIES

"The biggest failure of the agreement," said Alan Nymark, Canada's assistant of chief negotiator, "was in not achieving a regime of rules and regulations defining subsidies."

In recent U.S.-Canada trade skirmishes—potash, pork, corn, softwood lumber—subsidies have been the issue behind complaints of unfair pricing. Negotiators tried to get their arms around this tar baby but ran out of time, according to Trade Minister Carney. They chose to leave subsidies and other unresolved disputes to a binational panel, appointed as part of the trade agreement.

This panel was high on the Canadian wish list.

For years, Canadians had chafed at having to appear hat-in-hand before U.S. agencies hearing disputes. Typically, U.S. producers complained about Canadian subsidies depressing price, and the Commerce Department socked Canada with a countervailing tariff, which eliminated their pricing advantage. Canadians began to view the countervail threat as a trade barrier.

Dispute settlement "was really the sticking point for our side up to the last moment," Nymark said.

Under the agreement, a binational panel of five experts would settle dumping or countervail disputes. Its decision would be binding and without judicial review.

Under this system, New Mexico potash producers could not have filed dumping complaints with the Commerce Department and the International Trade Commission. Uranium producers would not have had the courts. Neither likes the idea of the panel or the loss of judical review.

However, the panel would apply the law of the importing country in disputes over products covered by the agreement, Carney said, and both countries have "almost identical" anti-dumping laws. The panel would have a 5-year life, during which time both countries are to pass new laws.

"The free-trade agreement is not a license to poach," Carney said.

The panel has its work cut out. For Canadians, the subsidy debate reaches into some deeply held ideas about government's role in the economy.

"The U.S. considers us radical, Commie pinkos," Carney said, but even Canadian conservatives support the nation's ambitious social programs and its silent partner status with business. Other officials made it clear that jobs are a high priority in Canada, whatever the cost.

Consider the collapse of oil prices.

The United States allowed this disaster to run its course and now blames a bum market for thousands of layoffs and bankruptcies, scores of bank failures and billions of dollars in business and tax losses.

Canada and its provinces chose to help the industry "rather than have that kind of ripple effect," said David Russell, deputy premier of energy-rich Alberta. The help include royalty holidays, elimination of a tax similar to our windfall profits tax, reduction of corporation taxes and a $350 million drilling incentive program. As a result their oil industry is weakened but not bloody like its Texas counterparts.

Canadians point to U.S. grain subsidies and argue that economic development incentives and industrial development bonds could be considered subsidies.

This tough debate is far from finished, but Quebec Premier Robert Bourassa allows, "we could find some common rules."

CANADIAN DEBATE

"I really believe in this," says University of Toronto economist John Crispo. "I think it's desperately important for Canada."

Crispo fumes that David Peterson, premier of the richest and most populated province of Ontario, has denounced the agreement, while Quebec Premier Robert Bourassa embraces it.

"Quebec has more vulnerable industries than Ontario," he says. "Bourassa is betting on the new winners and not the old losers," while Peterson, "isn't a big enough man to admit he's wrong."

Peterson snaps that Crispo is "a windbag and a pop economist. There are some thoughful guys in this debate. Crispo isn't one of them."

While the free-trade agreement dawns slowly on Americans, Canadians have engaged in sharp and often emotional debate for the last two years.

Proponents like Bourassa say, "We have the chance in Canada to be close to one of the biggest markets of the world." In his office atop a Montreal skyscraper, he relates a conversation with New York Gov. Mario Cuomo, who said, "The free-trade agreement is very good for Canada and good for the United States."

Next day, the tall, elegant David Peterson strolls into a Toronto conference room, shakes hands with each reporter, and offers to get coffee. "This is the most difficult debate I've ever faced—fraught with historical envy and regional tensions," he says, adding that he's been "beaten up regularly" for his opposition.

"In a word, it's a bad deal. It was put together with bailing wire and driven on politics," Peterson says. "This deal would not protect us from another softwood lumber, a shakes and shingles or a potash dispute." For "marginal gains, at best" Canada has thrown away its high card. "Twenty years ahead, in an energy starved world, what advantage do we have? Energy is one."

The Canadian business community has agitated for at least five years to dismantle trade barriers—a dramatic and historic turnabout. In 1911, the same segment, fearing economic and political absorption by the United States, helped dump a free trade initiative along with the politicians who espoused it. Nobody tried again until recently.

"The name of the game for manufacturing is competition," says Robert Denomme, chief economist for the Canadian Manufacturing Association. "It's very much a global marketplace these days."

"We're in an expansionist mood," said Pierre Laurier, first vice president of Merrill Lynch in Montreal. "Of course, we are conscious of the risks. We know there are many businesses here that couldn't compete if everything were wide open tomorrow."

Ontario's Peterson names two.

The agreement, he says, "will absolutely wipe out our wine industry" and hurt Canadian food processors. "If somebody leaves on the Oreo cookie machine for 15 minutes, there's the Canadian market."

Proponents are a diverse bunch—Chambers of Commerce, pork producers, banks, utilities, wheat growers, cattlemen, and Quebec's separatists.

Jacques Parizeau, a candidate for leadership of the Parti Quebecois, explains, "By securing access in North America for our goods, we open the way for sovereignty."

OPPONENTS SPEAK

Opposing the agreement, besides Ontario, are the provinces of Manitoba and Prince Edward Island, along with the two opposition parties, the labor movement, the Farmers Union and some industry segments.

Edmonton publisher Mel Hurtig, whose very name proponents say with distaste, is chairman of The Council of Canadians, a nationalist group. He said in November that the agreement was "an enormous step towards economic integration and economic union" with the United States and predicted that once signed, "there will be no Canada in a generation."

To U.S. reporters, he said, "Quite a few of us are concerned about sovereignty—economic, political, social and cultural. We have the highest degree of foreign ownership of any country in the world. Segments of the industry are virtually 100 percent foreign owned. Americans would never tolerate that level of control."

Hurtig and union leaders believe the agreement would erode Canada's sovereign right to make decisions about its future.

"When the free-trade agreement takes effect and U.S. corporations start calling for a level playing field we know that level playing field will be by U.S. rules," says Basil Hargrove, assistant to the president of the Canadian Auto Workers.

Canadian unions, looking at the lot of their U.S. counterparts, don't relish closer ties. In Canada, 33 percent of workers are unionized, compared with 17 percent in the United States.

Union leaders and other opponents are particularly worried about losing social programs they say are superior—and more expensive—than those in the United States.

"I think the unions are justified to worry about the free-trade agreement," said Merrill Lynch's Laurier, "but not because social programs will be lost. We will see some leveling. It's obvious the sort of deals private business struck with unions in the United States have been quite different from what Canadians have."

Critics also point out that 75 percent of trade is already duty free.

"Why is the remaining 25 percent such a big deal? That's where the gravy is," said Trade Minister Pat Carney. She said petrochemicals, for example, face a 15 to 18 percent tariff barrier.

Another argument is that many U.S. companies, including the auto industry, built plants in Canada to leap tariff barriers. Without the tariffs, they might close plants. Proponents argue that companies, finding it cheaper to operate in Canada, would stay here and expand.

Premier Peterson would like to see the agreement renegotiated, but with or without it, he says, the U.S. and Canada "will continue to be the two best friends in the world."

[From Natural Gas Intelligence Newsletter, Oct. 26, 1987]

CANADIANS FEAR REPRISALS UNDER TRADE TREATY

Canadian producers are fearful the U.S.-Canadian free trade agreement may prove to be a mixed blessing, leaving them like sitting ducks, with an unwanted higher profile among U.S., rivals who have not given up any rights under the treaty to allege unfair competition and to attack it.

Officially, the Canadian Petroleum Association, the Independent Petroleum Association of Canada and the Small Producers and Exployers Association of Canada applauded the pact an answer to old dreams of open market. In practice, the groups conceded that the agreement only ratifies actions already taken by Ottawa's National Energy Board, which replaced tough regulations of exports and prices with a mild system of monitoring.

There is widespread anxiety that if the trade agreement leads to anything new, it will be an assault on the Canadian industry's alleged advantages as a result of elaborate federal and provincial energy programs. Documents leaked during the trade negotiations hinted that the U.S. Department of Commerce sees the Canadian industry as riddled with subsidies. Such an interpretation is possible, even in wrongheaded, admitted spokesmen for all the Canadian industry groups.

Canadian authorities and companies perfer to call their system one of development incentives and responses to falling prices. Semantics aside, however, there is no doubt that help for the Canadian industry has been rich by American standards.

* * * with production interests throughout North America and the North Sea, calls Alberta one of the cheapest places anywhere to stockpile energy assets. Ranger, the only Canadian independent listed on the New York Stock Exchange, has sold most of its American holdings, but accelerated Alberta drilling after a long absence to concentrate on the North Sea.

Pierce estimates that the combined tax and royalty load on U.S. companies is still between 22 percent and 25 percent, counting federal, state, county and even school board levies, plus royalty revenue shares owed to unyielding private landowners. In stark contrast, he estimates the burden on small to medium size independents in Alberta, source of more than four/fifths of Canadian oil and gas production alike, as between zero and a token 5 percent.

The Conservative government in Ottawa has dubbed the energy industry "the engine of growth" for a national economy heavily reliant on resource extraction, and financial policies attempt to give this sector some fuel. Federal production taxes, once as high as 16 percent, have been abolished. On top of resource exploration and production incentives built into the corporate tax sytem, a federal grant program pays one/third of the cost of drilling wells up to a ceiling of $0.3 million per company in one year.

In Canada the provincial governments own most of the resources, rather than private landowners. Provincial royalties, like the federal financial system, are studded with lures to attract energy firms and keep them interested. In Alberta a tax credit scheme rebates all royalties a company pays on its first $12 million worth of gas and oil production each year. Although added "holidays" from owing any royalties on new discoveries for up to five years go only to oil finds, companies find the extra bonus a handy way to keep money on hand for gas drilling too, if customers come along.

While precise comparisons of the financial status of Canadian and U.S. producers are found to be a subject of intense debates, Ranger is far from the only one voting with its feet in favor of the North. The federal and provincial incentives area available to companies regardless of their nationality. Slow but steady growth of foreign investment attracted by development-hungry Canada is spreading beyond high profile takeovers such as Amoco Corporation's bid for Dome Petroleum, and British Gas PLC's move on Bow Valley Industries Ltd.

U.S. independents are hunting Canadian properties and companies, anonymously through newly created corprate fronts such as Opportunity Resources Inc., or openly in well publicized shopping trips by operators such as Houston's Mossbacher Energy Co., Wolverine Exploration of Fort Worth, Pangea Petroleum of Los Angeles and Dudley Hughes of Jackson, Miss.

Although Canadian gas producers say they do not know when or how an attack on their advantages might come, they acknowledge that opportunities and methods are

abundant. An obvious, frontal assault akin to tariff countervailing duty actions taken against Canadian metal and lumber exports through the U.S. International Trade Commission or Commerce Dept., is unnecessary in the case of gas.

There is always the U.S. Federal Energy Regulatory Commission. The Canadians are vowing to keep a much closer eye on FERC, to avoid any more surprises like its Opinion 256, restricting payment of Canadian export shipping costs as a means to erase unfair advantages that U.S. producers complained about. TransCanada's Frew said that the free trade agreement only underlines a need for Canadians to find a voice in the United States. His pipeline is opening a Washington office this fall and he predicts "you'll see a much more concerted effort by a lot of the Canadian companies" to establish a presence "where the action is."●

By Mr. BRADLEY (for himself, Mr. STAFFORD, Mr. INOUYE, Mr. COCHRAN, Mr. GORE, Mr. GARN, Mr. LEVIN, Mr. WARNER, Mr. LAUTENBERG, Mr. MURKOWSKI, Mr. PELL, Mr. DOMINICI, Mr. DIXON, Mr. DOLE, Mr. SANFORD, Mr. HATCH, Mr. SARBANES, Mr. STAFFORD, Mr. BURDICK, Mr. TRIBLE, Mr. BUMPERS, Mr. LUGAR, Mr. GRAHAM, Mr. BOSCHWITZ, Mr. STENNIS, Mr. SIMPSON, Mr. RIEGLE, Mr. THURMOND, Mr. BOREN, Mr. BENTSEN, Mr. HEFLIN, Mr. HOLLINGS, Mr. QUAYLE, Mr. DANFORTH, and Ms. MIKULSKI):

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; referred to the Committee on the Judiciary.

GEOGRAPHY AWARENESS WEEK

● Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Vermont, Mr. STAFFORD, to introduce a resolution to delcare the week of November 13 to November 19, 1988, "Geography Awareness Week."

Mr. President, last year when I introduced the first "Geography Awareness Week" resolution, it was becoming clear that an alarming level of geographic illiteracy had developed in our Nation. Surveys found that our Nation's students had, at best, a distorted understanding of our world and, at worst, were totally ignorant of the most basic geography.

In Dallas, 25 percent of the high school students could not name the country that bordered the United States to the South. In Boston, 39 percent of the surveyed students could not name the six New England States. In Baltimore, 45 percent could not, when asked, shade in the appropriate area on an outline map that location corresponding to the United States. A survey by the Asbury Park Press found that, on the average, 12th graders could identify only 41 percent of the States.

Mr. President, since the recognition of Geography Awareness Week last year some progress has been made in dealing with this illiteracy. But it is only a beginning. We must continue to revitalize and expand the role of geography in the public consciousness. Much more needs to be done.

To help raise public awareness of the need for geography education, I sponsored a State-wide geography competition in New Jersey. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, was crowned grand champion of geography when she won the final round of the geography bee. She won the bee by naming the highest mountain in the Western Hemisphere, Mount Aconcagua in Argentina, and correctly naming Key Largo as the largest of the Florida Keys.

I also taught geography to a class of high school students at River Dell Regional High School in Oradell, NJ. Currently schools throughout my State are involved in the final round of another competition to select the best classroom geography project for 1987-88. I am pleased that so many students and teachers in my State have become more involved in this issue than they were a year ago. However, our work is not done.

Our country is a our unique Nation: a population with a diverse ethnic and racial heritage; a broad landscape; bountiful resources. All of this contributes to our status as a world power.

Knowledge of geography offers a necessary perspective as we work to understand our heritage, our relationship with the Earth, and our interdependence with other peoples of the world.

Traditional geography has virtually disappeared from American schools, although it is still being taught as a basic subject in other countries, including Great Britain, Canada, Japan, and the Soviet Union.

Continued ignorance of geography, other cultures, and foreign languages places the United States at a disadvantage in matters of business, politics, and the environment.

The United States is a nation with worldwide involvements and global influence which demand that our citizens have an understanding of the lands, languages, and cultures of the world.

Our national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent world.

It is for this reason that I am introducing today this resolution to continue to focus national attention on the need for a knowledge of world geography. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to the sort of education which will help them appreciate the great beauty and diversity of this nation and its place in the world.

I ask that the attached resolution by placed in the CONGRESSIONAL RECORD.

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

S.J. RES. 263

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States and could not name the New England States;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, language and cultures of the world; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 13, 1988, and ending November 19, 1988, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate ceremonies and activities.●

● Mr. STAFFORD. Mr. President, I rise today to join my good friend from New Jersey, Senator BRADLEY, to introduce Senate Joint Resolution 263 to designate the period commencing No-

vember 13, 1988, and ending November 19, 1988, as "Geography Awareness Week." As the principal cosponsor of this legislation, I am pleased to bring to the attention of our Nation the importance of geographic literacy.

In a time when our world is shrinking due to advances in communication and transportation, our children are woefully lacking in their knowledge of other cultures, land forms, and global issues. Over the past 10 years the study of geography as a discipline has all but disappeared from American classrooms. In hearings held last fall, we learned that widespread geographic illiteracy is the product of deemphasizing geography in American schools. Our Nation cannot afford to have citizens who are unaware of such basic information as the customs and beliefs of foreign peoples and the effect of climate on the economic well-being of nations.

Attaining geographic literacy for all our citizens is more than a laudable goal. It is an essential goal. To that end, Geography Awareness Week is a significant step in the right direction. The first Geography Awareness Week was designated by Congress in November 1987. During that time, school children and citizens across our Nation joined in a celebration of geographic knowledge. For example, a kindergarten class in Monroe, OR, learned about geography with a special mapping project. The youngsters attached notes to Christmas trees from Oregon which were then shipped to other States. The notes asked tree buyers to tell the kindergartners where they lived so the children could make a map showing the distribution of Christmas trees.

The Christmas tree tracking project was just one of many classroom activities and special projects organized around Geography Awareness Week. Thirty-two State Governors signed proclamations declaring Geography Awareness Week; more than 150,000 balloons were launched with messages to track their whereabouts; elected officials and foreign ambassadors came forward to teach classes in geography; and geography fairs were held across our country. Minnesota's three largest school districts are now moving to improve their geography curricula. These activities were inspired by the congressional sponsorship of Geography Awareness Week.

By raising the consciousness of our Nation's citizens, Geography Awareness Week has made a tremendous contribution to improving geographic literacy. It is estimated that 1,000 news and feature stories about geography appeared in newspapers, on television and on radio. In the mind of this Senator, Geography Awareness Week marks the beginning of a much needed, and long overdue, thrust toward geographic literacy.

Calling attention to geography gives the schools across our Nation a concrete forum for emphasizing geography in the curriculum. It also provides a focal point for discussing the relevance of geography in a world where economic competitiveness hinges on a sound understanding of the impact of geography on world affairs.

Mr. President, our Nation's leadership in world affairs is dependent on American citizens who are informed about global issues. Over the past year, we have seen school children once again learning about the physical and cultural features of our planet. We have seen politicians and foreign ambassadors contributing to geography activities. We have witnessed the beginning of a nationwide commitment to geographic literacy. As a forum for activities and special events across our great Nation, Geography Awareness Week has made, and I hope will make again in 1988, a significant contribution to raising the overall knowledge of geography among our citizens.●

By Mr. RIEGLE:

S.J. Res. 264. Joint resolution to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week;" referred to the Committee on the Judiciary.

NATIONAL CORRECTIONAL OFFICERS WEEK

● Mr. RIEGLE. Mr. President, today I am introducing a joint resolution to designate the week beginning May 8, 1988, as "National Correctional Officers Week."

This resolution is similar to legislation I sponsored last year and which was enacted by Congress. This commemorative week serves to honor our correctional officers around the country for their tireless commitment of staffing the Nation's correctional facilities.

Mr. President, our Nation's correctional officers work under highly stressful conditions, where exposure to risky or dangerous situations is a daily part of their jobs. Presently, these officers are responsible for the safety and welfare of over 600,000 inmates in the country, and are also integral to the protection of surrounding communities.

I feel strongly that National Correctional Officers Week is a way to show our support and appreciation for these dedicated men and women. I urge my colleagues to support this resolution.●

ADDITIONAL COSPONSORS—FEBRUARY 23, 1988

S. 39

At the request of Mr. D'AMATO, his name was added as a cosponsor 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. 237

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 237, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes.

S. 1353

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1353, a bill to amend the Internal Revenue Code of 1986 to exempt certain livestock breeding from the rules requiring capitalization of preproductive expenses and to preclude farmers with gross receipts in excess of $5,000,000 from using a cash method accounting.

S. 1378

At the request of Mr. THURMOND, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1679

At the request of Mr. HATCH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1679, a bill to establish a block grant program for child care services, and for other purposes.

S. 1910

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1910, a bill to provide financial assistance to local educational agencies to demonstrate the advantages of implementing plans to reduce class size.

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2024

At the request of Mr. BAUCUS, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033

At the request of Mr. THURMOND, the name of the Senator from Missouri

[Mr. DANFORTH] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2041

At the request of Mr. HEINZ, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2041, a bill to amend title 23, United States Code, to reduce Federal highway funds to States that do not enforce the 65 mile per hour speed limit.

S. 2042

At the request of Mr. DURENBERGER, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Montana [Mr. MELCHER], the Senator from Iowa [Mr. HARKIN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2075

At the request of Mr. DASCHLE, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Michigan [Mr. RIEGLE], the Senator from Kentucky [Mr. FORD], and the Senator from Iowa [Mr. HARKIN], were added as cosponsors of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the names of the the Senator from Oklahoma [Mr. BOREN], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 227

At the request of Mr. HOLLINGS, the name of the Senator from California [Mr. CRANSTON], was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to express gratitude for law enforcement personnel.

SENATE JOINT RESOLUTION 230

At the request of Mr. HELMS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Virginia [Mr. WARNER], the Senator from Virginia [Mr. TRIBLE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], and the Senator from Kansas [Mr. DOLE], were added as cosponsors of Senate Joint Resolution 230, a joint resolution to designate the third week of June of 1988 as "National Dairy Goat Awarenesss Week."

SENATE JOINT RESOLUTION 234

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from Indiana [Mr. LUGAR], the Senator from Alabama [Mr. SHELBY], the Senator from Texas [Mr. GRAMM], the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. STENNIS], the Senator from Georgia [Mr. NUNN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. WEICKER], the Senator from North Carolina [Mr. HELMS], the Senator from Illinois [Mr. DIXON], the Senator from Arkansas [Mr. BUMPERS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Georgia [Mr. FOWLER], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Oklahoma [Mr. BOREN], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Maine [Mr. MITCHELL], were added as cosponsors of Senate Joint Resolution 234, a joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. FORD, the names of the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. D'AMATO], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 239, a joint resolution to designate May 1 through May 31, 1988, as "Worldwide Bluegrass Music Month."

SENATE JOINT RESOLUTION 251

At the request of Mr. HOLLINGS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 251, a joint resolution designating March 4, 1988, as "Department of Commerce Day."

SENATE JOINT RESOLUTION 254

At the request of Mr. BURDICK, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Joint Resolution 254, a joint resolution to designate the period commencing on May 15, 1988, and ending on May 21, 1988, as National Health Awareness Week."

SENATE JOINT RESOLUTION 258

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 258, a joint resolution expressing the sense of the Congress that the people of the United States should purchase products made in the United States and services provided in the United States, whenever possible, instead of products made or services performed outside the United States.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. MELCHER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution to facilitate the convening of a Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. ADAMS, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Arizona [Mr. MCCAIN], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Virginia [Mr. TRIBLE], the Senator from Maryland [Mr. SARBANES], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from New York [Mr. D'AMATO], the Senator from Rhode Island [Mr. PELL], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the United States Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage these officials to continue to extend all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

SENATE RESOLUTION 377

At the request of Mr. LUGAR, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

ADDITIONAL COSPONSORS—FEBRUARY 24, 1988

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor 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. 612

At the request of Mr. SIMON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Maine [Mr. COHEN], the Senator from South Carolina [Mr. THURMOND], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 1381

At the request of Mr. SASSER, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1412

At the request of Mr. HOLLINGS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1412, a bill to amend the Coastal Zone Management Act of 1972 regarding activities significantly affecting the coastal zone.

S. 1429

At the request of Mr. LAUTENBERG, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Illinois [Mr. SIMON], the Senator from Maine [Mr. COHEN], the Senator from North Carolina [Mr. SANFORD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Colorado [Mr. WIRTH], the Senator from Hawaii [Mr. INOUYE], the Senator from Nevada [Mr. REID], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emission across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1457

At the request of Mr. FORD the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1457, a bill to establish, with respect to any grant or research protocol of the National Institutes of Health, a restriction that any person obtaining or using for any research purpose any animal acquired from any animal shelter shall not be eligible to receive any such grant or research protocol.

S. 1474

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1474, a bill to require that any U.S. Government support for military or paramilitary operations in Angola be openly acknowledged and publicly debated.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Colorado [Mr. ARMSTRONG] 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. 1678

At the request of Mr. DECONCINI, his name was added as a cosponsor of S. 1678, a bill to establish a block grant program for child care services, and for other purposes.

S. 1851

At the request of Mr. SIMPSON, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1867

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1867, a bill to amend title 28, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes.

S. 1931

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1931, a bill to amend part B of title IV of the Higher Education Act of 1965, relating to the guaranteed student loan programs, to reduce the high default rate under that program, and to improve debt collection under that program, and for other purposes.

S. 2024

At the request of Mr. BAUCUS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2042

At the request of Mr. DURENBERGER, the names of the Senator from Nebraska [Mr. KARNES] the Senator from Tennessee [Mr. SASSER], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

SENATE JOINT RESOLUTION 21

At the request of Mr. HOLLINGS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

SENATE JOINT RESOLUTION 212

At the request of Mr. DIXON, the names of the Senator from New York [Mr. D'AMATO], the Senator from Kentucky [Mr. FORD], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 212, a joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week."

SENATE JOINT RESOLUTION 226

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Senate Joint Resolution 226, a joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week."

SENATE JOINT RESOLUTION 240

At the request of Mr. BIDEN, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Wyoming [Mr. WALLOP], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. STEVENS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Indiana [Mr. QUAYLE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 240, a joint resolution to designate the period commencing on May 16, 1988, and ending on May 22, 1988, as "National Safe Kids Week."

ADDITIONAL COSPONSORS—FEBRUARY 25, 1988

S. 533

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1586

At the request of Mr. KERRY, the names of the Senator from Washington [Mr. ADAMS], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1586, a bill to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1861

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1861, a bill to amend the Controlled Substances Act to suppress the diversion and trafficking of precursor chemicals and es-

sential chemicals utilized in the illicit manufacture of controlled substances.

S. 1885

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1885, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2051

At the request of Mr. MCCLURE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2051, a bill entitled the "Prohibition of Undetectable Firearms Act".

S. 2062

At the request of Mr. NICKLES, the names of the Senator from North Carolina [Mr. HELMS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

S. 2075

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax-free purchases of certain fuels, including purchases by farmers.

SENATE JOINT RESOLUTION 227

At the request of Mr. HOLLINGS, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 227, a joint resolution to express gratitude for law enforcement personnel.

SENATE JOINT RESOLUTION 249

At the request of Mr. RIEGLE, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Indiana [Mr. QUAYLE], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 249, a joint resolution designating June 14, 1988, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 251

At the request of Mr. HOLLINGS, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Joint Resolution 251, a joint resolution designating March 4, 1988, as "Department of Commerce Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. HUMPHREY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 257, a joint resolution to authorize and request the President to issue a proclamation designating March 21, 1988, as "Afghanistan Day," a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.

SENATE JOINT RESOLUTION 261

At the request of Mr. PRESSLER, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 262

At the request of Mr. HATCH, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution to designate the month of March 1988, as "Women's History Month."

SENATE RESOLUTION 377

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

SENATE CONCURRENT RESOLUTION 100—RELATING TO A STANDARD DEFINITION OF GOODS WHICH MAY BE EXPORTED AS HUMANITARIAN DONATIONS

Mr. LEAHY submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 100

Whereas the authority granted to the President by the International Emergency Economic Powers Act to take certain actions pursuant to his declaring a national emergency does not include the authority to regulate or prohibit, directly or indirectly, donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except where the President determines that such donations would seriously impair his ability to deal with the national emergency, are in response to coercion against the proposed recipient or donor, or would endanger United States Armed Forces which are engaged in hostilities;

Whereas the Trading With the Enemy Act authorizes United States persons to donate articles (including food, clothing, and medicine) intended to be used solely to relieve human suffering, to any country with which the United States is at war, after the cessation of hostilities;

Whereas the Export Administration Act of 1979 specifically denies the President the authority to impose foreign policy export controls on medicines, medical supplies, and donated goods (including, but not limited to, food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies) that are intended to meet basic human needs, and restricts the President's authority to impose export controls on food; and

Whereas the legislative history of the International Emergency Economic Powers Act expresses the intent of the Congress that any article other than military or strategic items can be donated in order to relieve human suffering; that the definition of exempted humanitarian goods be given the broadest construction possible; and that the mention of "food, clothing, and medicine" is meant to be illustrative and in no way to be an inclusive list: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that in exercising authorities under the International Emergency Economic Powers Act, the Trading With the Enemy Act, and the Export Administration Act of 1979, the executive branch should use a standard definition of humanitarian donations that is consistent with the intent of the Congress that humanitarian goods be defined as broadly as possible.

● Mr. LEAHY. Mr. President, during the past 6 years of the Contra war in Nicaragua our two countries have maintained diplomatic relations. Many Americans have availed themselves of the opportunity to visit Nicaragua. They have gone there to see for themselves the effects of the Contra policy, and to show their concern for the Nicaraguan people who have been caught in the middle of that war.

I have often argued that the way to bring democracy to a backward country like Nicaragua is to show its people what democracy has to offer, rather than carry on a bloody war to overthrow their government by force. We should be sending doctors, agronomists, veterinarians and Peace Corps volunteers instead of guns, bullets, and boots for the Contras.

Unfortunately, this administration believes otherwise. In 1985 President Reagan declared a national emergency with respect to Nicaragua and ordered the Treasury Department to issue regulations controlling trade with that country. Those regulations banned all exports from the United States to Nicaragua. The only exports allowed are those to the Contras and private donated items for the Nicaraguan people such as food, clothing, and medicines, intended to be used to relieve human suffering.

The President used the authority of the International Emergency Economic Powers Act to impose the trade embargo on Nicaragua. That act provides for humanitarian help even during an embargo. Its legislative history clearly establishes that the act's exemption for donations of humanitarian items was intended to be broadly construed. However, advised by the State Department, the Treasury Department has denied licenses to charitable organizations such as Oxfam and Catholic Relief Services to send donated humanitarian items—hoes, sickles, axes—which do not fit within the narrow

categories of food, clothing or medicine which the regulations cite as examples of humanitarian items. Treasury did so not because of the items themselves, but because the recipients were deemed to be affiliated with the Nicaraguan Government.

The irony of this policy is that the administration has given millions and millions of dollars of military equipment to the Contras under the label of "humanitarian aid." Yet, the Administration denies Catholic Relief Services a license to donate a couple of thousand dollars worth of construction tools to Nicaraguans because of some "affiliation" with the Government. Those tools—hammers, saws, and shovels—collected by private Americans, are stored in a Miami warehouse.

Mr. President, in Nicaragua just about everything is in some way "affiliated" with the Government. You cannot get anything done in that country without the Government being on your board of directors, approving your license, authorizing your activities, controlling your funds, and on and on. It's bureaucracy run wild.

There are two other statutes that control exports and contain exceptions for private donations of humanitarian items. Those exceptions either explicitly allow donations of a broad variety of items, or are being construed more broadly by the Treasury Department.

The Trading With the Enemy Act authorizes Americans to donate items intended to be used solely to relieve human suffering, to any country with which we are at war, after the cessation of hostilities. Under this act, Oxfam is sending a variety of humanitarian items, in addition to food, clothing and medicine, to Vietnam and Cambodia—two declared enemies of the United States with which we do not have diplomatic relations. As in Nicaragua, just about everything in those countries is in some way "affiliated" with the Government.

The Export Administration Act denies the President the authority to impose controls on items intended to meet basic human needs—including food, medicine, shelter materials, seeds, hand tools and educational supplies.

These conflicting statutes governing humanitarian donations by private citizens have been used by the administration to further its foreign policy. Although the Congress intended that the categories of humanitarian items in the International Economic Powers Act should be illustrative rather than inclusive, Oxfam's request to send simple hand tools to an agricultural school in Nicaragua was denied. That school is funded by Sweden and has instructors from several countries including the United States who teach Nicaraguan farmers how to repair and operate farm machinery.

However, the Treasury says that the school is affiliated with the Sandinista government—and on that basis denied the license.

Mr. President, Americans pride themselves on the generous way they have responded to people in need overseas. From the days of Point Four relief after World War II to the famine in Ethiopia, a country ruled by one of the most repressive Marxist governments in the world, Americans have put aside politics to ease the pain of hunger and poverty.

Whether one is for or against the Contra policy, the administration's politicization of humanitarian aid has implications that go far beyond this case. It conflicts with our tradition of generosity and with the very notion of humanitarianism, which is the promotion of human welfare, not political goals. And, it sets a precedent for the future, when another administration may use the same political litmus test to ban donations of humanitarian items to poor people in South Africa or some other country whose government we disagree with.

On December 14, 1987, in order to remedy the discrepencies in existing law and in how those laws are being administered, Congressman BONKER introduced a resolution expressing the sense of the Congress that the executive branch should use a standard definition of those items which may be exported as humanitarian donations.

If the regulations permit humanitarian items to go to Vietnam and Cambodia to relieve basic human needs, why shouldn't those same regulations allow donations of the same sorts of humanitarian items to the people of Nicaragua—without having to meet some ideological litmus test?

Today I am introducing identical legislation in the Senate. While I recognize that the future of United States-Nicaragua relations rests largely on the outcome of the Central American peace talks, this legislation goes far beyond our policy toward that country. It impacts on the humanitarian instincts of Americans generally—instincts that we should do all we can to encourage.●

SENATE RESOLUTION 382—TO REMOVE THE POWER TO ARREST SENATORS FROM THE SERGEANT AT ARMS

Mr. HATCH submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 382

Resolved, That paragraph 4 of rule VI of the Standing Rules of the Senate is amended by striking ", and, when necessary, to compel".

SENATE RESOLUTION 383—TO EXPRESS THE SENSE OF THE SENATE REGARDING FUTURE FUNDING OF AMTRAK

Mr. LAUTENBERG (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. WEICKER, Mr. BIDEN, Mr. SPECTER, Mr. BYRD, Ms. MIKULSKI, Mr. BRADLEY, Mr. BURDICK, Mr. FOWLER, and Mr. HARKIN) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 383

Whereas Amtrak the National Railroad Passenger Corporation, was established by the United States Congress in 1971 to assume operation of rail passenger services in this country;

Whereas Amtrak now operates 230 trains daily over a 24,000 mile route system, and also owns and controls the high speed Northeast Corridor rail line between Washington, District of Columbia, and Boston, Massachusetts;

Whereas Amtrak has and will continue to reduce its dependence on Federal funding which has declined from $896.3 million in fiscal year 1981 to $580.8 million in fiscal year 1988, a reduction of over 50 percent in constant dollars;

Whereas Amtrak covers an increasing percentage of its total costs from its own revenues, and the revenue-to-cost ratio has improved from 48 percent in fiscal year 1981 to 65 percent in fiscal year 1987 and a projected 67 percent in 1988;

Whereas Amtrak revenues in fiscal year 1987 were $973.5 million, an increase of 13 percent over 1986, which resulted from increases in transportation, real estate, mail and express, and corporate development revenues over fiscal year 1986;

Whereas Amtrak provided transportation for more than 20.4 million people in fiscal year 1987, and 10.2 million of those travelers rode trains in Amtrak's Northeast Corridor between Washington, D.C., and Boston, Massachusetts;

Whereas Amtrak generated 5.221 billion passenger miles in fiscal year 1987 and the ratio of passenger miles per train mile (an indicator of the number of passengers riding the average train one mile) increased from 172.2 in fiscal year 1986 to 177 in fiscal year 1987, reflecting the increased density of passengers on Amtrak trains;

Whereas Amtrak is an ongoing business and any drastic reduction in public support, or the elimination of Federal funds, would force the corporation into bankruptcy and threaten the end of rail passenger service across the country;

Whereas the Federal, and State governments have invested heavily to modernize Amtrak facilities, purchase new rolling stock, and upgrade the high speed Northeast Corridor, which raised the value of Amtrak's net assets to over $3 billion, all of which would have to be sold at scrap value if rail passenger service were eliminated;

Whereas some 22,800 Amtrak employees in 44 States would become unemployed if the corporation received no public funds and was forced into bankruptcy;

Whereas termination of rail passenger service would trigger $2.1 billion in Amtrak liability to pay labor protection to affected employees, and if Amtrak is rendered insolvent, labor would turn to the United States Government for payment of these claims;

Whereas an Amtrak shut down of the Northeast Corridor would drastically increase the cost, and disrupt the provision of daily commuter service by New Jersey Transit, the Southeastern Pennsylvania Transportation Administration, the Maryland Department of Transportation, and the Massachusetts Bay Transit Authority, for the approximately 175,000 people per day who use these carriers over Amtrak owned and operated rail lines in Washington, D.C., Maryland, Pennsylvania, New Jersey, New York, and Massachusetts;

Whereas the shutdown of the Northeast Corridor would disrupt freight service provided by Conrail and other carriers on the corridor, which serve numerous businesses including General Motors, Ford, Chrysler, Dupont, General Foods, and General Electric;

Whereas Amtrak carries more than twice as many passengers between and among the Northeast Corridor stations of New York, Newark, Philadelphia Wilmington, Baltimore, and Washington, than all airlines combined, and over one third of all air and rail passengers daily between Washington, D.C., and New York alone;

Whereas a shutdown of intercity rail service in the Northeast Corridor would strain already busy and overcrowded airports along the Atlantic seaboard;

Whereas Amtrak provides needed transportation for lower income and elderly travelers (36 percent of all long haul passengers have family incomes below $20,000, 55 percent have family incomes below $30,000, 40 percent are 55 years of age or older, and 22 percent are over 65 years of age);

Whereas both Amtrak's labor and management workers have made efforts to improve productivity, and as such, Amtrak will be the first railroad in this country to operate its trains nationwide under totally revised and modernized work rules;

Where all major industrialized Western nations have taken pride in establishing rail service and publicly funding their passenger systems;

Whereas Congress has consistently supported a balanced national transportation network, including the financial support of various modes of transportation, making this country the most mobile in the world and making travel available to persons of all income levels;

Whereas part of this balanced transportation system established by Congress has included the provision of intercity rail passenger service; and

Whereas Congress has voted numerous times to authorize and to appropriate sufficient funds to operate a national rail passenger system and has rejected efforts to eliminate Federal funding for Amtrak: Now, therefore, be it

Resolved, That it is the sense of the United States Senate that—

(1) Amtrak should be supported by the Federal Government at a level that will enable it to continue to operate a national railway system and to continue the progress that has been made to improve its financial performances and service levels; and

(2) the Secretary of Transportation and the Administrator of the Federal Railroad Administration should work closely with Amtrak management to—

(A) identify areas and assist in implementing changes that will further lower Amtrak's dependence on public funding without adversely affecting service; and

(B) insure that safety is given the highest priority possible as part of managements responsibility to provide rail passenger service.

SEC. 2. The clerk of the United States Senate shall transmit a copy of this resolution to the President with the request that the President further transmit copies of this resolution to the Secretary of Transportation and the Administrator of the Federal Railroad Administration.

Mr. LAUTENBERG. Mr. President, I rise today to introduce a sense of the Senate resolution reaffirming support for the National Railroad Passenger Corporation, better known as Amtrak.

I'm pleased to be joined by Senators PELL, MOYNIHAN, WEICKER, BIDEN, SPECTER, BYRD, MIKULSKI, BRADLEY, BURDICK, and FOWLER.

This resolution is necessary because the President's budget proposal for fiscal year 1989 again would eliminate Amtrak funding. We've seen this proposal before. Year after year, the administration has sought to derail Amtrak. Year after year, the Congress has said no.

Amtrak is a vital link in our national transportation network. To deny funds for Amtrak is to deny the importance of such a network. That's the policy this administration has endorsed. It's a policy that just doesn't make sense.

Let's look at the facts. Amtrak serves almost 21 million people over 24,000 miles of track in 44 States. Some 5.2 billion passenger miles were generated in fiscal year 1987. In addition, approximately 175,000 commuters in a number of States depend on Amtrak's rails each and every day.

Half of Amtrak's passengers travel in the Northeast Corridor. The importance of Amtrak in my region can hardly be overestimated. In 1987, Amtrak carried more passengers among the points between Washington and New York than all the airlines combined. Carrying 3,800 passengers each day, Amtrak has become the single largest provider of point-to-point service between Washington and New York.

In my State, thousands of commuters rely on Amtrak service and facilities each day. Without Amtrak, New Jersey would face major disruption of service, or fare increases that would make rail commutation unavailable for those who need it most.

Amtrak service is an indispensible asset. Our roads and airways simply could not absorb the passenger load if Amtrak were eliminated, as proposed by the administration. For example, it would require an additional 54 flights each day between Washington and New York to handle those now using Amtrak. It's clear that capacity just doesn't exist.

Amtrak is a tremendous success story. It's growth and success has come in the face of major budgetary constraints. Between fiscal years 1981 and 1982, Federal support for Amtrak fell from $896.3 to $580.8 million, a 50-percent reduction in constant dollars. Other Federal programs should perform so well.

As chairman of the Appropriations Subcommittee on Transportation, I have worked closely with Amtrak president, Graham Claytor, to make Amtrak less dependent on Federal funding while maintaining and improving service. I can assure my colleagues that Amtrak has every intention to continue these efforts, and that I will work with Mr. Claytor in this endeavor.

Mr. President, pressure on Amtrak has resulted in great savings. That progress should continue. This resolution calls for just that. It would ask the administration to work with Amtrak to make it even more efficient and reliable. The resolution reaffirms the view of the Congress that Amtrak should remain a viable entity, and that adequate funding should be provided.

Mr. President, I urge my colleagues to cosponsor this resolution.●

● Mr. PELL. Mr. President, I join in cosponsoring a resolution offered by the Senator from New Jersey [Mr. LAUTENBERG] expressing the sense of the Senate that funding for the Nation's rail system, Amtrak, should continue.

Once again, the Reagan administration is proposing the elimination of funding for Amtrak and the eventual sale of the Northeast corridor. Instead of eliminating funding, it is my strong belief that the fiscal 1989 budget should continue funding for Amtrak at the level required to assure good service. In recent months, one could not open a newspaper or watch the evening news without seeing story after story about airline delays, unhappy passengers, and reports questioning the safety of the skies. This alone may be reason enough to continue to fund an efficient, safe, existing means of transportation along the always busy eastern seaboard corridor as well as all over the Nation.

The administration's proposal would eliminate badly needed moneys just as Amtrak is developing a record of economic viability. In the last months of 1987, Amtrak tested a new type of passenger car that will, if successful, increase passenger comfort while reducing travel time between Washington, DC, New York, Providence, and Boston. I find it disturbing that, at the very time that Amtrak is turning the corner to a bright, productive future, this administration wants to cut the very railbed out from under Amtrak.

Once again, let me commend my good friend from New Jersey for his concern and efforts to ensure efficient mass transportation for the Northeast corridor and throughout the country, and urge my colleagues in the Senate to support this important resolution.●

● Mr. SPECTER. Mr. President, today I join Senator LAUTENBERG in introducing a resolution which expresses the sense of the Senate regarding future funding of Amtrak. I strongly oppose the President's proposal to terminate Amtrak's operating subsidies contained in the fiscal year 1989 budget released on Thursday, February 19. The 1988 funding level for operating subsidies was $580 million.

I long have been committed to maintaining funding for Amtrak and I remain committed now to maintaining a national passenger railroad system. If Amtrak funding is cut back significantly, the Nation will be without quality rail passenger service.

Preservation of Amtrak's passenger service is a matter of great national importance. It provides vital services for the entire Nation, particularly for the populous eastern seaboard. Without continued support for Amtrak, highway and air traffic will be snarled along the east coast, with highways jammed and airports clogged.

Reductions of Amtrak funding also would have serious economic implications nationwide. Amtrak presently employs approximately 25,000 people throughout the country and contributes $1.5 billion through its annual operating budget to the national economy. During 1987, Amtrak remained one of the largest transportation companies in the country. In the Commonwealth of Pennsylvania, Amtrak employed 3,100 people in 1987, as well as thousands of others in Pennsylvania's rail supply industry. Amtrak contributed another $68 million to Pennsylvania's economy in 1987 through the purchase of goods and services.

Amtrak trains carry almost 16,500 people daily between Washington and New York. Deep cuts in Amtrak funding would result in less Amtrak service in the Northeast corridor, adding to air congestion and ultimately requiring additional Federal dollars for airport and highway construction.

Mr. President, severe cuts in Amtrak funding likely would result in serious adverse economic consequences to the Nation in term of loss of investment, loss of rail passenger service, and loss of jobs. When these costs and consequences are considered, it is clear that the far better choice is for the Senate and the Federal Government to continue providing full support to Amtrak. Accordingly, I urge our colleagues to join us in support of this resolution.●

AMENDMENTS SUBMITTED

THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

HATCH AMENDMENTS NOS. 1411-1461

(Ordered to lie on the table.)

Mr. HATCH submitted 51 amendments intended to be proposed by him to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

AMENDMENT No. 1411

On page 30, line 16, strike out "FINDINGS AND".

Beginning on page 30, strike out line 17 and all that follows through page 33, line 9.

On page 33, line 10, strike out "(b) PURPOSE.—".

AMENDMENT No. 1412

On page 55, line 20, after "disease", insert the following: "Or that the employees have been adequately notified under the hazard communication standard".

AMENDMENT No. 1413

Beginning on page 30, strike out line 16 and all that follows through page 34, line 3.

AMENDMENT No. 1414

On page 32, line 5, insert "high" before "risk".

On page 32, line 13, insert "high" before "risk".

On page 32, line 17, insert "high" before "risk".

On page 32, line 21, insert "high" before "risk".

On page 33, line 4, insert "high" before "risk".

On page 33, line 12, insert "high" before "risk".

On page 33, line 13, insert "high" before "risk".

On page 33, line 24, insert "high" before "risk".

On page 34, line 3, insert "high" before "risk".

On page 34, line 6, insert "High" before "Risk".

On page 36, line 17, insert "HIGH" before "RISK".

On page 36, line 18, insert "high" before "risk".

On page 37, line 2, insert "high" before "risk".

On page 37, line 6, insert "HIGH" before "RISK".

On page 37, line 10, insert "High" before "Risk".

On page 39, line 13, insert "High" before "Risk".

On page 40, line 3, insert "high" before "risk".

On page 40, line 11, insert "high" before "risk".

On page 40, line 15, insert "high" before "risk".

On page 41, line 13, insert "HIGH" before "RISK".

On page 41, line 14, insert "high" before "risk".

On page 42, line 14, insert "high" before "risk".

On page 42, line 24, insert "high" before "risk".

On page 43, line 4, insert "high" before "risk".

On page 44, line 4, insert "high" before "risk".

On page 44, line 12, insert "high" before "risk".

On page 47, line 9, insert "HIGH" before "RISK".

On page 47, line 11, insert "high" before "risk".

On page 47, line 14, insert "high" before "risk".

On page 48, line 1, insert "HIGH" before "RISK".

On page 48, line 2, insert "high" before "risk".

On page 48, line 3, insert "high" before "risk".

On page 48, line 9, insert "high" before "risk".

On page 48, line 13, insert "high" before "risk".

On page 48, line 19, insert "high" before "risk".

On page 49, line 10, insert "high" before "risk".

On page 49, line 15, insert "high" before "risk".

On page 51, line 14, insert "high" before "risk".

On page 51, line 18, insert "high" before "risk".

On page 52, line 23, insert "high" before "risk".

On page 53, line 15, insert "high" before "risk".

On page 54, line 12, insert "high" before "risk".

On page 54, line 20, insert "high" before "risk".

On page 55, line 7, insert "high" before "risk".

On page 55, line 13, insert "high" before "risk".

On page 55, line 17, insert "high" before "risk".

On page 55, line 19, insert "high" before "risk".

On page 56, line 6, insert "high" before "risk".

On page 56, line 21, insert "high" before "risk".

On page 57, line 6, insert "high" before "risk".

On page 59, line 22, insert "high" before "risk".

On page 63, line 11, insert "high" before "risk".

On page 63, line 24, insert "high" before "risk".

On page 64, line 7, insert "high" before "risk".

On page 64, line 20, insert "high" before "risk".

On page 65, line 7, insert "high" before "risk".

On page 67, line 4, insert "high" before "risk".

On page 70, line 24, insert "high" before "risk".

On page 71, line 14, insert "high" before "risk".

On page 73, line 3, insert "HIGH" before "RISK".

On page 73, line 9, insert "high" before "risk".

On page 74, line 21, insert "high" before "risk".

On page 78, line 2, insert "high" before "risk".

On page 78, line 11, insert "high" before "risk".

AMENDMENT No. 1415

On page 35, lines 7 and 8, strike out "including the United States or any State or political subdivision of a State" and insert in lieu thereof "except that such term shall not include the United States or any State or political subdivision of a State".

AMENDMENT No. 1416

On page 36, line 4, insert "increased risk of" after "that".

AMENDMENT No. 1417

On page 36, line 5, strike out "exposed and insert in lieu thereof "because of exposure".

AMENDMENT No. 1418

On page 36, line 12, after the period, insert the following: Nothing in this Act shall prevent the Board from determining whether the term includes passive smoking.".

AMENDMENT No. 1419

On page 36, strike out lines 20 through 24 and insert in lieu thereof the following:

(A) exposed under working conditions to an occupational health hazard with—

(i) a similar concentration of exposure and a similar duration of exposure;

(ii) a greater concentration of exposure and a similar duration of exposure;

(iii) a similar concentration of exposure and a greater duration of exposure; or

(iv) a greater concentration of exposure and a greater duration of exposure; and

On page 41, line 14, strike out "In" and insert in lieu thereof "Subject to section 3(10), in".

On page 41, lines 22 through 24, strike out "(such as concentration of exposure, or durations of exposure, or both)".

AMENDMENT No. 1420

On page 43, lines 5 and 6, strike out "consider the extent to which particular populations may" and insert in lieu thereof "designate populations that will".

AMENDMENT No. 1421

On page 47, line 14, insert after "risk" the following: ", except that the Secretary shall not require the notification of an individual of a risk under this Act if the individual is required to be notified under any other Federal law".

AMENDMENT No. 1422

On page 48, line 3, insert before the period the following: "and the absolute risk of such disease or diseases for the population at risk".

On page 48, strike out lines 7 through 11 and insert in lieu thereof the following:

(5) POSSIBLE CONTRIBUTING FACTORS.—Any known information concerning the extent and magnitude of increased risk of illness or disease resulting from exposure to nonoccupational factors (such as tobacco and alcohol use) in combination with exposure to the occupational health hazard.

AMENDMENT No. 1423

On page 49, line 7, insert "employers and" after "for".

AMENDMENT No. 1424

On page 49, line 12, strike out "The" and insert in lieu thereof "Subject to the second sentence of this subsection, the".

On page 49, line 17, after the period insert the following: "The Institute shall prepare and distribute such material and information only to populations at risk of disease which have been notified under this Act.".

AMENDMENT No. 1425

On page 49, lines 12 and 13, strike out "the Institute" and insert in lieu thereof the following:

"(1) GENERAL RULE.—Subject to the provisions of paragraph (2), the Institute".

On page 49, between lines 17 and 18, insert the following:

(2) PUBLIC COMMENT REQUIRED.—No medical and health promotion material and information may be distributed pursuant to paragraph (1) of this subsection until after an opportunity has been provided for public comment on such distribution.

AMENDMENT No. 1426

On page 49, strike out lines 12 through 17.

On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

On page 50, line 10, strike out "(f)" and insert in lieu thereof "(e)".

On page 51, line 1, strike out "(g)" and insert in lieu thereof "(f)".

On page 71, line 1, strike out "5(g)" and insert in lieu thereof "5(f)".

On page 73, line 11, strike out "5(g)" and insert in lieu thereof "5(f)".

On page 75, line 8, strike out "5(f), 5(g)" and insert in lieu thereof "5(e), 5(f)".

AMENDMENT No. 1427

On page 51, beginning with line 1, strike out through line 19 on page 52 and insert in lieu thereof the following:

"(g) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by a determination of the Board under this Act is entitled to judicial review of the determination in accordance with the provisions of chapter 7 of title 5 of the United State Code.

AMENDMENT No. 1428

On page 52, between lines 19 and 20, insert the following new subsection:

(h) LIABILITY FOR USE OF TOBACCO PRODUCTS.—Notwithstanding any other provision of law, an employer shall not be liable for any act or omission relating to the use of a tobacco product by an employee if the employer during the period of use—

(1) prohibits the use of the tobacco product in the workplace of the employer; and

(2) offers a tobacco withdrawal course to the employee without cost to the employee.

AMENDMENT No. 1429

On page 52, between lines 19 and 20, insert the following new subsection:

(h) LIABILITY FOR USE OF TOBACCO PRODUCTS.—Notwithstanding any other provision of law, an employer shall not be liable for any act or omission relating to the use of a tobacco product by an employee if the employer—

(1) notified the employee in accordance with this Act of the occupational health hazard arising from the use of the tobacco product; and

(2) during the period of use—

(A) prohibits the use of the tobacco product in the workplace of the employer; and

(B) offers a tobacco withdrawal course to the employee without cost to the employee.

AMENDMENT No. 1430

On page 52, between lines 19 and 20, insert the following new subsection:

(h) LIABILITY FOR USE OF TOBACCO PRODUCTS.—Notwithstanding any other provision of law, an employer shall not be liable for any act or omission relating to the use of tobacco by an employee.

AMENDMENT No. 1431

On page 55, line 11, strike out "30" and insert in lieu thereof "20".

AMENDMENT No. 1432

On page 58, line 14, strike out "personal".

On page 58, line 15, insert "and the employers of employees" before the semicolon.

AMENDMENT No. 1433

On page 63, line 21 through 25, strike out "who—" through the period and insert in lieu thereof "who the employer knows are members of the population at risk as determined by the Board.".

AMENDMENT No. 1434

On page 55, lines 17 and 18, strike out ", as a result of significant mitigating factors,".

AMENDMENT No. 1435

On page 55, lines 22 through 24, strike out "If the Institute concludes that any application raises an issue of material fact which is subject to reasonable dispute, the" and insert in lieu thereof "The".

On page 56, lines 16 and 17, strike out "or, where no hearing is held, within 30 days of the receipt of an application,".

AMENDMENT No. 1436

On page 56, line 13, strike out "60" and insert in lieu there of "120".

AMENDMENT No. 1437

On page 55, line 13, after "notification,", insert the following: "or within 90 days after a decision is issued under paragraph (4) for a similarly situated employer,".

On page 56, lines 22 and 23, strike out "The Institute shall deny a variance to all other employers."

On page 57, strike out lines 8 through 12.

AMENDMENT No. 1438

On page 64, line 10, insert before the period the following: "or other occupational health hazards that would have additive health effects".

AMENDMENT No. 1439

On page 57, lines 4 and 5, strike out "fundamentally different from the factors" and insert in lieu thereof "likely to result in lower exposure levels or lower exposure durations than".

On page 57, line 5, strike out the comma and insert in lieu thereof a period.

On page 57, strike out lines 6 and 7.

AMENDMENT No. 1440

On page 57, lines 11 and 12, strike out "Determinations by the Board may not be challenged in any action brought pursuant to this subsection."

AMENDMENT No. 1441

On page 65, line 14, insert after the comma the following: "along with all medical information, and made himself or herself available for medical evaluation,".

AMENDMENT NO. 1442

On page 58, line 7, insert "prevention," before "recognition".

AMENDMENT NO. 1443

On page 58, line 25, insert after "of" the following: "identifying occupational health hazards, reducing exposure to occupational health hazards, and".

AMENDMENT NO. 1444

On page 58, lines 10 and 11, strike out ", and geographical proximity for designated populations".

AMENDMENT NO. 1445

On page 66, line 21, insert before the period the following: "if the final medical determination is that the employee needs to be transferred".

AMENDMENT NO. 1446

Beginning on page 66, line 24, strike out "who—" and all that follows through the period on page 67, line 5, and insert in lieu thereof the following: "who the employer knows are members of the population at risk as determined by the Board.".

AMENDMENT NO. 1447

On page 68, line 3, insert "EMPLOYER" after "SPECIAL".

On page 68, between lines 12 and 13, insert the following:

(6) SPECIAL EMPLOYEE LIMITATION.—An employer shall not be required to provide medical removal protection for an employee who has been employed for less than 12 months.

AMENDMENT NO. 1448

On page 68, line 16, insert "by the employer" after "confidential".

AMENDMENT NO. 1449

On page 58, line 15, strike out "and".

On page 58, line 19, strike out the period and insert in lieu thereof "; and".

On page 58, between lines 19 and 20, insert the following:

(3) assist employers to develop programs that will reduce employee risks of occupational diseases.

AMENDMENT NO. 1450

On page 59, line 1, insert "decrease the cost" after "and".

On page 59, line 1, insert "the effectiveness of" after "improve".

On page 59, line 7, insert "cost effective" after "developing".

On page 59, line 16, insert "cost effective" after "developing".

AMENDMENT NO. 1451

On page 59, line 19, strike out "and".

On page 59, line 22, strike out the period and insert in lieu thereof "; and".

On page 59, between lines 22 and 23, insert the following:

(F) studying and developing cost effective approaches to reducing the risk of occupational health hazards.

AMENDMENT NO. 1452

On page 59, line 21, insert after "define" the following: "additional cost effective medical intervention, additional cost effective approaches to reducing exposure to occupational health hazards, other factors that may increase the risk of developing occupational disease, and".

AMENDMENT NO. 1453

On page 79, between lines 3 and 4, insert the following:

SEC. 15. WORKER PROTECTION STANDARDS.

Within one year after the date of the enactment of this section, the Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgate standards for the health and safety protection of employees exposed to the tobacco smoke of other individuals, commonly referred to as passive smoking.

On page 79, line 4, strike out "SEC. 15." and insert in lieu thereof "SEC. 16.".

On page 30, in the table of contents, redesignate "Sec. 15." as "Sec. 16." and insert after the item "Sec. 14" the following new item:

"Sec. 15. Worker protection standards.".

AMENDMENT NO. 1454

On page 32, line 20, strike out "identifying, notifying, counseling," and insert in lieu thereof "counseling".

AMENDMENT NO. 1455

On page 34, line 19, insert after "commerce" the following: "and who has not been notified under the hazard communication standard".

AMENDMENT NO. 1456

On page 45, line 8, after the period, insert the following new sentence: "To be considered a final determination, a determination must be approved by at least five Board members.".

AMENDMENT NO. 1457

On page 45, line 19, after the period, insert the following new sentence: "If the determination is not unanimous, the views of the minority members of the Board shall be made available to the public.".

AMENDMENT NO. 1458

On page 47, line 13, after "population", insert the following: ", and each employer who employs or has employed an employee within such population,".

On page 55, lines 12 through 15, strike out "the Board" and all that follows through "that population" and insert in lieu thereof "an employee receives notification, the employee".

AMENDMENT NO. 1459

On page 52, line 12 and 13, strike out "substantial evidence on the record" and insert in lieu thereof "the preponderance of the scientific evidence".

AMENDMENT NO. 1460

On page 52, line 11, strike out "or".

On page 52, line 13, strike out the period and insert in lieu thereof "; or".

On page 52, between lines 13 and 14, insert the following:

(F) unsupported as the result of evidence that exposure duration or levels for a workplace are less than those that were used as the basis for the determination of the Board.

AMENDMENT NO. 1461

On page 55, line 15, after "may", insert the following: ", individually or in association with other similarly situated employers,".

Mr. HATCH. Mr. President, sometime in the near future it is expected that this body will take up S. 79, the High Risk Occupational Disease Notification and Prevention Act. To make sure that my colleagues understand some of the problems with this legislation and the reasons for my opposition, I am filing today a number of amendments that address some of the flagrant flaws in this bill.

I hope these amendments will be kept in mind now that the supporters of the bill have started to discuss changes in an attempt to gather support for the legislation. Like the plant closing legislation, I expect this bill will undergo a metamorphosis of sorts prior to coming to the floor. We have already seen High Risk I and II, and in all likelihood we will see High Risk III, IV and so on before a bill is finally considered. Unfortunately, I doubt that the proponents will agree to the degree of change necessary to salvage this bill and give it a chance of becoming law.

Some of my colleagues may be surprised, given my voting record in the past, that I am opposing S. 79. I led the fight to put new warning labels on cigarettes and smokeless tobacco products. I worked to establish the prevention block grants to help States increase their prevention efforts. I have supported programs to reduce sexually transmitted diseases and reduce childhood accidents. And in the last Congress, I authored legislation which would have established a President's Council on Health Promotion and Disease Prevention to take a comprehensive look at what we can do to prevent diseases in this country.

In this Congress, I introduced the legislation which will help prevent infectious disease in our children and help us combat tuberculosis. Also, Senator KENNEDY and I have introduced legislation aimed at reducing infant mortality and have moved through the Committee on Labor and Human Resources legislation to reduce the spread of AIDS in this country.

Since I have spent a significant part of my career in this body advocating disease prevention programs, there is nothing I would like more than to have before Congress responsible occupational disease prevention legislation. Unfortunately, S. 79 is not such a bill.

While its stated purpose is disease prevention, its principal effect will be litigation. Its primary consequence will not be measured in terms of saved lives, but in notices mailed. And, in the name of politics, it permanently, explicitly avoids one of the most significant occupational hazards in the workplace today.

My opposition is based on several basic problems with this legislation which I will outline, along with some possible solutions. First, I do not believe we should create a new Federal bureaucracy simply because we are un-

happy with the performance of existing agencies.

I did some checking and was able to come up with at least a dozen Federal agencies, administrations, and departments which are currently involved in regulating health and safety. Everyone from the Occupational Safety and Health Administration to the Environmental Protection Agency to the Coast Guard to the Bureau of Alcohol, Tobacco, and Firearms is involved. And this list of more than a dozen Federal agencies does not include the numerous health and safety activities of State and local agencies.

If we can't adequately address the occupational disease problem with more than 12 Federal agencies, I doubt adding one more will provide the solution. If we are dissatisfied with existing performance, why not address the problems directly instead of creating yet another Federal bureaucracy, which may be no more successful than those already in existence? If there are gaps in our existing Federal occupational disease programs, gaps which I believe exist, why not fill those gaps? Why not work within the existing Federal framework?

There is already too much duplication and too little coordination of Federal efforts. Creating another new board will only exacerbate this problem, especially since we will have to cut existing programs in order to finance this idea.

Second, responsible legislation should be cost-effective. Or to put it a different way, it should be effective for its cost. The American public should not be forced to pay for a program which has little, if any, impact on the morbidity and mortality of occupational diseases.

Notifying workers after they may have been exposed to an occupational health hazard is not the most effective method for preventing the disease. Why not keep as our primary focus on disease prevention instead of disease notification?

Efforts to reduce the morbidity and mortality of occupational disease can be divided into three approaches. Primary intervention covers efforts to prevent exposure to the hazard; secondary intervention covers those efforts which take place after exposure has occurred, but before the development of disease; and tertiary intervention includes those efforts which take place after the development of disease in an attempt to reduce its impact.

Of these three approaches, primary intervention is the only one which has the potential to prevent all occupational disease. We must recognize that, in many instances, it is very difficult to prevent the development of disease once exposure has occurred.

Too often, effective medical intervention is not available. For example, lung damage which occurs from exposure to silicosis is not reversible; and, other than primary intervention or stopping the worker from smoking, there is very little that can be done to slow its progress. Nor can we halt mesothelioma, which is a lung cancer associated with exposure to asbestos. Unsually, by the time it can be detected using current medical technology, it has spread to the point where it is almost always fatal.

Secondary intervention is not only less effective than primary intervention, it is also very costly. Frequently, only a small percentage of the workers who have been exposed to an occupational health hazard acutally develop the disease. But since there is usually no technique available to separate those few workers from the other workers who have been exposed, every worker must be monitored, usually for long periods of time. Secondary intervention must cover every worker to have any impact at all, and must do so at considerable cost.

In protecting workers, effectiveness and cost must be factors in developing new legislation. When choosing between two approaches to reduce occupational disease, common sense tells us that, if one costs significantly more than the other yet produces no better results, why not at least consider the less costly. Unfortunately, S. 79 does not take this approach. Instead, it chooses the most costly and least effective solution.

Moreover, attempts to amend the bill to address one of the most effective methods for reducing workers' risk of developing occupational disease—smoking cessation—were vigorously blocked. We were told that despite all the stated justifications for this bill, smoking was just too politically divisive to be addressed.

We were also told that the Board would not even be allowed to consider whether or not passive smoking is a health hazard for nonsmokers. In other words, we are being asked to adopt legislation reported to address workplace health hazards yet, at the same time, to bar forever any consideration of a hazard which kills 15 people a day in this country, many due to exposure at work.

Third, to be effective, any legislation must encourage the employer and the employee to work together to increase health and safety in the workplace. While the employer may be primarily responsible, if we want to continue improving and protecting the health of everyone in the workplace, it must be through a joint partnership. An employee also has some responsibility for his or her own health.

The employer must provide the equipment and training necessary to assure that the workplace environment is a healthy one. The employee needs to use the safety equipment provided and also to bring unsafe working conditions to the attention of management. In addition, an employee has the responsibility to take steps to reduce or eliminate those lifestyle practices which may increase his or her risks of disease. Again, smoking is one obvious example. I am encouraged to see a number of companies which are now working with their employees to help them stop smoking. This is a trend we should encourage.

Any new program which focuses solely on the employer or solely on the employee will be only a fraction as effective as it should be. Just as many occupational hazards have a synergestic, or enhancing, effect with smoking, employees and employers working together can have a synergistic effect when it comes to increasing health in the workplace. We must encourage the employer and the employee to work together, to cooperate on providing and maintaining a healthy work environment.

Fourth, this kind of legislation must also be neutral in its impact on liability. In its current form, not even the supporters of S. 79 can claim that it will not increase liability costs. The best they can claim is that the increase will be acceptable.

But after looking at previous Federal notification projects, projects which the supporters of S. 79 point to as the models for this legislation, Robert R. Nathan Associates estimated that 25 percent of those notifed will file suit against their employers, costing on the average $95,000 per suit to resolve. The sponsors expect that 300,000 people will be notified each year under this bill, generating on this issue alone annual costs of $7.125 billion.

Those who will be hit the hardest of course will be small businesses. There are some who believe that companies in this country represent an endless supply of wealth which can be continually tapped. They do not realize that if Congress enacts S. 79, mandated health benefits legislation, mandated parental leave legislation, and an increase in the minimum wage, many small companies will be driven out of business. Others will have to raise prices and inevitably lay off workers. We already knew according to CDC that two of those proposals could eliminate 500,000 jobs. Consequently before we enact legislation such as S. 79, I think it is prudent to determine whether the proposal can be effective, given its total impact.

Finally, to be effective such legislation must not deny anyone the right to due process. Individuals who are affected by the decisions of Federal agencies and boards deserve to have their full due process rights protected. They deserve the right to be heard before any general rule or regulation is promulgated; they deserve the right to a fair determination as to whether

the rule or regulation should apply to them; and they deserve the right of appeal.

To guarantee these rights, Congress established a set of procedures for most administrative agencies to follow in the Administrative Procedures Act. S. 79, however, creates a Federal agency that is basically immune from this statute. It would be above the traditional controls we place on other branches of Government.

The amendments I am introducing today will address some of these problems. They are both technical and structural in nature. I hope my colleagues will review them and join with me in an attempt to modify S. 79 so that it becomes reasonable, responsible, and effective health promotion legislation.

PROHIBITION OF UNDETECTABLE FIREARMS ACT

McCLURE AMENDMENT NO. 1462

(Ordered referred to the Committee on the Judiciary)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 2051) entitled the "Prohibition of Undetectable Firearms Act"; as follows:

On page 3, line 12, strike out "4" and insert in lieu thereof "5".

On page 3, line 19, strike out "5" and insert in lieu thereof "6".

On page 3, between lines 11 and 12, insert the following:

"SEC. 4. SECURITY ENHANCEMENT.

"Magnetometers and x rays at all Federal Aviation Administration and other federally controlled security checkpoints shall be set to detect all existing firearms manufactured in, or imported into, the United States.

"Where necessary, Federal Aviation Administration and other Federal agencies with jurisdiction over security operations shall provide primary and secondary security personnel, equipment, and procedures sufficient to ensure the ability to detect all existing firearms manufactured in, or imported into, the United States.".

Mr. McCLURE. Mr. President, several weeks ago, Senator HATCH and I introduced the Prohibition of Undetectable Firearms Act, S. 2051.

Since that time, I have discussed the issue of standards for x-rays and magnetometers with the Treasury Department, and with firearms rights groups concerned with airline safety and the safety of public places. We have determined that although present technology is capable of discerning all existing firearms, in practice dangerous weapons can go undetected because of lax security enforcement. I am proposing an amendment that would address that problem.

It is not my intention to preclude discussions of this matter with other organizations concerned with airline safety or detecting dangerous weapons. Indeed, I am ready and willing to discuss this important issue, and to strive for sensible answers to all concerns.

I bring this to my colleague's attention because it is my hope that this language would be incorporated into S. 2051 during its committee consideration. Should the committee choose not to incorporate this language, it is my intention to offer this amendment when S. 2051 is considered on the Senate Floor.

SENATE ELECTION CAMPAIGN REFORM

HUMPHREY AMENDMENT NOS. 1463 AND 1464

(Ordered to lie on the table.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; as follows:

AMENDMENT No. 1463

Strike out section 6(b)(2) of the pending matter and insert in lieu thereof the following:

(2)(A) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(i) striking out "$1,000" in paragraph (1)(A) and inserting in lieu thereof "2,305"; and

(ii) striking out "$25,000" in paragraph (3) and inserting in lieu thereof "$57,625";

(B) Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(i) striking out "subsection (b) and subsection (d)" in paragraph (1) and inserting in lieu thereof "paragraphs (1)(A) and (3) of subsection (a), and subsections (b), (d), (i) and (j)"; and

(ii) inserting "for subsections (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987 for paragraphs (1)(A) and (3) of subsection (a) and subsections (i) and (j)" before the period at the end of paragraph (2)(B).

AMENDMENT No. 1464

At the end of the pending matter add the following:

SEC. . None of the provisions of this Act shall become effective until section 6(b)(2) of the pending matter is striken and the following inserted in lieu thereof:

(2)(A) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(i) striking out "$1,000" in paragraph (1)(A) and inserting in lieu thereof "2,305"; and

(ii) striking out "$25,000" in paragraph (3) and inserting in lieu thereof "$57,625";

(B) Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(i) striking out "subsection (b) and subsection (d)" in paragraph (1) and inserting in lieu thereof "paragraphs (1)(A) and (3) of subsection (a), and subsections (b), (d), (i) and (j)"; and

(ii) inserting "for subsection (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987 for paragraphs (1)(A) and (3) of subsection (a) and subsections (i) and (j)" before the period at the end of paragraph (2)(B).

VIABLE DOMESTIC URANIUM INDUSTRY

JOHNSTON (AND OTHERS) AMENDMENT NO. 1465

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself, Mr. FORD, Mr. BINGAMAN, Mr. McCLURE, Mr. DOMENICI, and Mr. WALLOP) submitted an amendment intended to be proposed by them to the bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; as follows:

In section 3 of the bill after paragraph (6) add the following and renumber the paragraphs accordingly:

"(7) the term 'domestic uranium' means—

"(A) any uranium that has been mined in the United States, unless such uranium is deemed to be foreign uranium under section 117; and

"(B) any uranium that is deemed to be domestic uranium under section 117.

"Uranium mined in the United States shall include uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in-situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

"(8) the term 'Equivalent Foreign Uranium' means the natural foreign uranium employed to produce the enriched foreign uranium included in a fuel assembly, considering the quantity of enriched uranium and the isotopic enrichment assays and tails assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural foreign uranium included in the assembly;

"(9) the term 'Equivalent Uranium' means the natural uranium employed to produce the enriched uranium included in a fuel assembly (excluding natural uranium employed through overfeeding), considering the quantity of enriched uranium and the isotopic enrichment assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural uranium included in the assembly;

"(10) the term 'foreign uranium' means (A) any uranium that has not been mined in the United States, unless such uranium is deemed to be domestic uranium under sec-

tion 117; and (B) any uranium that is deemed to be foreign uranium under section 117;".

At the beginning of title I of the bill after the heading add the following and renumber the existing section accordingly:

"SEC. 110. DELETION OF SECTION 161V.—Subsection 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

"SEC. 111. AMENDMENT TO SECTION 170B.—Section 170B of the Atomic Energy Act of 1954, as amended, is further amended by deleting '1983' and substituting '2000', by deleting '1982' and substituting '2000', and by deleting '1992' and substituting '2011' in both places it appears.

"SEC. 112. IN GENERAL.—Any licensee of a civilian nuclear power reactor with fuel assemblies loaded after December 31, 1987, and prior to January 1, 2001, that contain foreign uranium shall be assessed and pay the charges, to be imposed and collected by the Secretary, as provided in section 113, except as provided elsewhere in this title.

"SEC. 113. CALCULATION OF CHARGES.—

"(a) The charge to be imposed by the Secretary pursuant to section 112 shall be, subject to section 115, calculated upon the percentage of foreign uranium included in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year as follows:

"$0.00/kg on the kilograms of foreign uranium which comprise the first 37 and one-half per centum of the total weight of the uranium in new fuel assemblies loaded in such year.

"$200/kg on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 37 and one-half per centum, but less than or equal to 55 per centum.

"$250/kg on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 55 per centum but less than or equal to 60 per centum.

"$350/kg on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 60 per centum but less than or equal to 70 per centum.

"$400/kg on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 70 per centum but less than or equal to 80 per centum.

"$500/kg on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 80 per centum.

"(b)(1) For calendar years after December 31, 1994, no charge shall be imposed on the kilograms of foreign uranium which comprise the first 50 per centum of the total weight of the uranium in new fuel assemblies loaded in such year.

"(2) There shall be no charge imposed on foreign uranium excluded from the charge by section 115. The foreign uranium excluded from the charge by section 115, shall be deemed the first foreign uranium contained in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year for purposes of calculating the charges to be paid under this section.

"SEC. 114. CORPORATIONS OWNING MORE THAN ONE LICENSEE AND REACTORS WITH MULTIPLE OWNERS.—If a corporation owns more than one licensee, the percentage of foreign uranium which shall be considered included in new fuel assemblies loaded by each licensee owned by such corporation during a calendar year shall be the percentage of foreign uranium included in the aggregate of all new fuel assemblies loaded during such calendar year into all civilian nuclear power reactors owned by such corporation. Where a civilian nuclear power reactor is owned by more than one utility, an owner may, by mutual agreement with the other owners, elect to aggregate the pro rata share of new fuel assemblies in that plant with the pro rata shares of new fuel assemblies loaded in other civilian nuclear power reactors owned or operated by such owner.

"SEC. 115. EXCLUSION FROM CHARGE.—

"(a) In making the calculation of charges required in section 113, a charge shall not be assessed on foreign uranium that is included in new fuel assemblies loaded in all civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year if such uranium has been obtained under the terms of a contract for the purchase of uranium entered into prior to September 8, 1986, between the licensee or the corporation owning the licensees of such civilian nuclear power reactors and the supplier, including:

"(1) such a contract under which the quantity of uranium to be purchased is fixed but with flexibility as to date of delivery; and

"(2) such a contract with a domestic supplier that allows the supplier to select the national origin of the uranium delivered.

"(b) Foreign uranium that is included in new fuel assemblies loaded into a civilian nuclear power reactor owned or operated by a licensee or the licensees owned by one corporation during any calendar year shall be subject to the charges assessed on foreign uranium if such uranium was obtained under the terms of contract executed on or after September 8, 1986, or obtained under an option which was exercised on or after September 8, 1986. The increased quantities of foreign uranium obtained under a contract executed before September 8, 1986, but that is modified or extended after that date to increase the quantity of foreign uranium delivered, shall be subject to the charges imposed by secton 113.

"SEC. 116. DETERMINATION OF PERCENTAGE.—The percentage of foreign uranium that shall be deemed to be contained in the new fuel assemblies loaded in a year shall be determined by dividing the weight of Equivalent Foreign Uranium by the total weight of Equivalent Uranium in such fuel assemblies. For the purpose of this calculation fuel loadings during refueling outages that begin in one calendar year and are completed in the following year may be counted in either year but not both.

"SEC. 117. FLAG SWAPPING.—

"(a) For purposes of making the certification required under section 119 and calculating the charges imposed under this title, a characterization of the national origin of a particular lot of uranium shall be recognized as provided in this section.

"(b) If the national origin of a particular lot of uranium has not been changed from the nation in which it was mined, the nation in which such uranium was mined shall be used for purposes of making the certification required under section 119 and calculating the charges imposed under this title.

"(c) Any transaction in which a party tenders uranium having one national origin in return for receipt of uranium having a different national origin shall not be deemed to have involved a change in the national origins of the lots of uranium involved in the transaction if:

"(1) the transaction is accomplished in compliance with all applicable regulatory requirements; and

"(2) the lots of uranium involved in the transaction are held at the same location in the custody of a third party such that, in actuality or by reason of the accounting practices of the third party, the lots of uranium involved in the transaction are commingled.

"(d) If the national origin of a particular lot of uranium has been changed on or before January 1, 1986, from the nation in which it was mined, and such changed origin is shown on a DOE/NRC form 741 applicable to such uranium as of January 1, 1986, or on the first DOE/NRC form 741 executed after that date and applicable to such uranium, then the national origin of such uranium as shown on the first DOE/NRC form 741 reflecting the last change occurring on or before January 1, 1986, shall be recognized for purposes of making the certification required under section 119 and calculating the charges under this title.

"(e) If the national origin of a particular lot of uranium has been changed after January 1, 1986, from the country in which it was mined, from the national origin as shown on a DOE/NRC form 741 applicable to such uranium and recognized under subsection (d), or from a national origin recognized under this subsection prior to the change in question, such change in question shall be recognized for purposes of making the certification required under section 119 and calculating the charges owed under this title if the charge was part of an exchange of national origins that:

"(1) to the best knowledge of the owner of the particular lot of uranium, involved equal quantities of uranium, calculated on an equivalent natural uranium basis, with no increase in the quantities of uranium designated as foreign and designated as domestic;

"(2) to the best knowledge of the owner of the particular lot of uranium, involved no uranium that has been loaded into a reactor, irradiated, contained in enrichment tails material or other by-product material of processing (including materials lost or unaccounted for) or materials owned by the United States Government; and

"(3) complied with all applicable regulatory requirements at the time of the exchange, including regulations promulgated under subsection (f).

"(f) The Secretary shall promulgate regulations within six months after the date of the enactment of this title that, to the extent reasonable and practicable, ensure that the purposes of this title are realized in the characterization of the national origin of uranium under this section.

"(g) For purposes of this section, the term 'uranium' shall include natural uranium and natural uranium equivalents.

"SEC. 118. DISPOSITION OF CHARGES.—The charges imposed by this title, and collected by the Secretary, shall be deposited within sixty days after the certification required in section 119 in the general fund of the Treas-

ury of the United States as miscellaneous receipts.

"SEC. 119. CERTIFICATION.—The owner or operator of any civilian nuclear power reactor must certify to the Secretary by March 1 of each year the following information for the previous calendar year–

"(a) the total weight of uranium in new fuel assemblies loaded during such year;

"(b) the total weight of foreign uranium included in new fuel assemblies loaded during such year;

"(c) the total weight of foreign uranium included in new fuel assemblies loaded during such year which is excluded from the charge pursuant to section 115;

"(d) the total weight of domestic uranium included in new fuel assemblies loaded during such year;

"(e) the isotopic enrichment assays and tails assays employed in ordering enriched uranium used in the respective fuel assemblies during such calendar year; and

"(f) the equivalent natural uranium for each quantity of enriched uranium reported.".

In section 310 of the bill, in new section 1401(d) of the Atomic Energy Act, change the references to "section 110" to "section 120".

In section 310 of the bill after the words "'SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—"add the following subsection and reletter the subsections accordingly:

"(a) Notwithstanding any other provision of law, including 26 U.S.C. 501, the Corporation shall be exempt from Federal income taxation.".

JOHNSTON (AND McCLURE) AMENDMENT NO. 1466

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself and Mr. MCCLURE) submitted an amendment intended to be proposed by them to the bill S. 2097, supra; as follows:

In section 213 of the bill after "January 1, 1989." insert the following: "Such reimbursement shall be provided only to such extent and in such amounts as are provided in advance by appropriations Acts.".

In section 310 of the bill, strike the new section 1606 of the Atomic Energy Act and renumber the sections accordingly.

In section 310(b) of the bill in the Table of Contents strike the item "'SEC. 1606. RELATIONSHIP TO FEDERAL BUDGET." and renumber the remaining items of the Table of Contents accordingly.

In section 313 of the bill after "title.", insert the following: "For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts.".

FORD AMENDMENT NO. 1467

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill S. 2097, supra; as follows:

In section 310 of the bill, beginning with the words "'SEC. 1404. CERTAIN PENDING LITIGATION.—"strike everything through the words "certain enrichment services contracts." and insert in lieu thereof the following: "'SEC. 1404. CERTAIN PENDING LITIGATION.—The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.".

GROUND WATER PROTECTION ACT

DURENBERGER AMENDMENT NO. 1468

(Ordered held at the desk until the close of business on February 29, 1988.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the bill (S. 2091) to protect the ground water resources of the United States; as follows:

At the end thereof add the following new part:

PART I—FUNDS

SECTION 901. HAZARDOUS WASTE MANAGEMENT TAX

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Hazardous Waste Management Tax

"SEC. 4681. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

	If the taxable event is:	
"For calendar year:	Land disposal	Any other taxable event
	The tax per ton is:	
1989	$27.00	$2.70
1990	30.00	3.00
1991	31.00	3.00
1992	36.00	3.00
1993 and after	43.00	3.00.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) For definitions of hazardous waste, see section 4685(a)(1), and

"(B) land disposal and any other taxable event, see section 4685(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"SEC. 4682. EXEMPTIONS; REDUCTION WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS.—The tax imposed by section 4681 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit, issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4681 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4681 or 4684 was paid with respect to any hazardous waste, and

"(B) tax under section 4681 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4681 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

"(A) the weight of hazardous waste involved in the later taxable event, multiplied by—

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4681 or 4684 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4681 with respect to the later taxable event (as so determined).

"SEC. 4683. SPECIAL RULES.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4681 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4681 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste

management unit or for transport described in section 4681(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed under section 4681.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Administrator of the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4681 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is sold by such person for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(2) QUALIFIED CHEMICAL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4681 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of the tax imposed by section 4681 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

"SEC. 4684. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4681 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4682 shall apply to the tax imposed by subsection (a) of this section.

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATIONS OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"SEC. 4685. DEFINITIONS AND OTHER MATTERS.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is located or identified under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disposal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the water described in section 101(b) of the Marine Protection, Research and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4681(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (a), the terms 'landfill', 'surface impoundment', 'waste pile', and 'land treatment' have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'other taxable event' means—

"(i) a taxable event described in section 4681(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4681(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected.

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.".

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart (A) of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter D of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide to the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter.".

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(3) CONFORMING AMENDMENT.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste.".

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste.".

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes).".

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new item:

"Subchapter D. Hazardous Waste Management Tax.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect January 1, 1989.

(2) BACKUP TAX ON GENERATOR.—Section 4684 of the Internal Revenue Code of 1986 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1988.

SEC. 902. SOLID WASTE DISPOSAL TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchaper E—Solid Waste Disposal Tax

"Sec. 4686. Solid Waste Tax.
"Sec. 4687. Exemptions; Special Rules.
"Sec. 4688. Definitions.

"SEC. 4686. SOLID WASTE TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of solid waste at a solid waste management facility; and

"(2) the exportation of solid waste from the United States.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) with respect to each ton of solid waste shall be $1.00. In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the solid waste management facility.

"(2) WASTE EXPORTED.—The tax imposed by subsection (a)(2) shall be paid by the exporter.

"SEC. 4687. EXEMPTIONS; SPECIAL RULES.

"(a) EXEMPTION FOR WASTE RECEIVED AT MUNICIPAL INCINERATION FACILITY.—The tax imposed by section 4686 shall not apply to solid waste received at any facility recovering energy from the burning of solid waste, provided that the waste is burned within a reasonable period of time as specified in regulations by the Secretary. Ash and other residual waste from any such facility shall be deemed solid waste and shall be subject to the tax imposed by section 4686.

"(b) EXEMPTION FOR RESOURCE RECOVERY FACILITIES.—The tax imposed by section 4686 shall not apply to solid waste received at any resource recovery facility, provided that such waste is processed to recover materials within a reasonable period of time as specified in regulations by the Secretary. Any residual material not recycled shall be deemed solid waste and shall be subject to the tax imposed by section 4686.

"(c) EXEMPTION FOR WASTEWATER.—The tax imposed by Section 4686 shall not apply to any wastewater or domestic sewage or the byproducts of treating such wastewater or sewage.

"(d) EXEMPTION FOR FEDERAL FACILITIES.—The tax imposed by Section 4686 shall not apply to any solid waste received at any facility owned by the United States.

"(e) SPECIAL RULE FOR RECOVERED MATERIALS.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4686 was paid with respect to the receipt of any solid waste at any solid waste management facility, and

"(2) such waste is subsequently recycled by any person within 90 days after the date of first receipt or such other period of time as the Secretary may prescribe,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of the tax imposed under section 4686.

"(f) SPECIAL RULE FOR TRANSFER.—If tax under section 4686 was paid with respect to any solid waste, then no tax shall subsequently be imposed on such waste when received at a solid waste management facility.

"SEC. 4688. DEFINITIONS.

For purposes of this subchapter—

"(a) SOLID WASTE.—The term "solid waste" means any residential, commercial or institutional waste including solid, liquid, semisolid or contained gaseous material, but does not include solid or dissolved materials in domestic sewage, irrigation return flows or hazardous waste as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903), discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342, et seq.) or source, special nuclear, or hyproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2201, et seq.).

"(b) RESIDENTIAL SOLID WASTE.—The term "residential solid waste" means garbage, rubbish, trash, and other solid waste resulting from the normal activities of households.

"(c) COMMERCIAL SOLID WASTE.—The term "commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other such nonmanufacturing activities, and non-processing waste generated at industrial facilities such as office and packing wastes.

"(d) INSTITUTIONAL WASTE.—The term "institutional waste" means solid waste originating from educational, health care, correctional, and other institutional facilities.

"(e) SOLID WASTE MANAGEMENT FACILITY.—The term "solid waste management facilities includes—

"(1) any resource recovery or recycling facility including a municipal incineration facility, and

"(2) any facility for the collection, source separation, storage, transfer, processing, treatment or disposal of solid wastes.

"(f) RESOURCE RECOVERY FACILITY.—The term "resource recovery facility" means any physical plant or other facility operated by a State or local government or other entity that processes residential, commercial or institutional solid wastes biologically, chemically or physically and recovers useful materials for recycling, such as shredded fuel, combustible oil or gas, steam, metal, glass, paper, plastic or other materials.

"(g) MUNICIPAL INCINERATION FACILITY.—The term "municipal incineration facility" means any facility whether operated by a State or local government or other entity at which combustion of solid waste material collected from residential, commercial or institutional sources converts such waste to recovered energy.

"(h) RECYCLING.—The term "recycling" means the process by which recovered materials are transformed into new products.

"(i) TON.—The term "ton" means 2,000 pounds.".

(b) INFORMATION REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart (A) of part III of subchapter A of Chapter 61 of such code is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION WITH RESPECT TO SOLID WASTE TAX.

Each person on whom a tax is imposed under subchapter E of Chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.) or other law. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter.".

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6711. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO SOLID WASTE TAX.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039F shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

"(3) CONFORMING AMENDMENT.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information with respect to solid waste tax.".

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to solid waste tax.".

"(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter D the following new item:

"Subchapter E. Solid Waste Disposal Tax.".

"(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1989.

SEC. 903. WATER SUPPLY ASSESSMENT.

"(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Water Supply Assessment

"Sec. 4691. Imposition of Tax.
"Sec. 4692. Exemptions; Special Rule.
"Sec. 4693. Definitions.

"SEC. 4691. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on the sale or delivery of water by piped conveyance by any public water system.

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be 2 cents per thousand gallons.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person who owns or operates the public water system.

"SEC. 4692. EXEMPTION; SPECIAL RULE.

"(a) EXEMPTION FOR SMALL SYSTEMS.—The tax imposed by subsection (a) of section 4691 shall not be imposed on public water systems supplying 500 service connections or less, except that regulations promulgated by the Secretary shall prohibit organizational arrangements entered into for the principal purpose of avoiding liability for such tax.

"(b) SPECIAL RULE FOR RESALE.—No tax shall be imposed by section 4691 with respect to any water sale or delivery, if the person who would be liable for such tax establishes that a prior tax imposed by such section has been imposed and paid with respect to such water.

"SEC. 4693. DEFINITIONS.

For purposes of this subchapter.—

"(a) PUBLIC WATER SYSTEM.—The term 'public water system' means a system for the provision to the public of piped water for human consumption, and industrial, commercial, institutional and agricultural uses, if such system has at least fifteen service connections or regularly services at least twenty-five individuals.

"(b) SERVICE CONNECTION.—The term 'service connection' means any point of delivery by piped conveyance including, but not limited to, delivery to residential dwellings, commercial establishments, and institutional facilities.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1989.

SEC. 904. EXCISE TAXES.

"(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Excise Tax on Pesticides and Fertilizer Products

"Sec. 4696. Imposition of Tax.
"Sec. 4697. Exemptions; Special Rules.
"Sec. 4698. Definitions.

"SEC. 4696. IMPOSITION OF TAX.

"(A) GENERAL RULE.—There is hereby imposed a tax on each chemical product sold as a pesticide or fertilizer packaged for retail distribution in quantities less than 100 pounds.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be 2 per centum of the retail value of the pesticide or fertilizer product.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the manufacturer, producer or importer of the pesticide or fertilizer product.

"SEC. 4697. EXEMPTIONS; SPECIAL RULES.

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if

"(A) a tax under section 4696 was paid with respect to any taxable pesticide or fertilizer product, and

"(B) such product was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section, then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section.

"(2) USE AS AGRICULTURAL PESTICIDE OR FERTILIZER.—Under regulations prescribed by the Secretary, if

"(A) a tax under section 4696 was paid with respect to any pesticide or fertilizer product, and

"(B) such product is subsequently used by any person in the production of an agricultural commodity,

then an amount equal to the tax paid (2 per centum of the retail value of the product) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"(3) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections(a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4696.

"SEC. 4698. DEFINITIONS.

For purposes of this subchapter—

"(a) PESTICIDE.—The term "pesticide" means any substance or mixture of substances intended for use as an insecticide, herbicide or fungicide out-of-doors.

"(b) FERTILIZER.—The term "fertilizer" means any natural or synthetic material, including animal wastes and nitrogen, phosphorus, and potassium compounds used on soil to increase its fertility.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1989.

SEC. 905. TRUST FUNDS.

(a) GROUND WATER PROTECTION TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 9508 the following new section:

"SEC. 9509. GROUND WATER PROTECTION 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 "Ground Water Protection Trust Fund" consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Ground Water Protection Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4681 (relating to the management of hazardous waste); and

"(2) taxes received in the Treasury under section 4696 (relating to the sale of pesticide and fertilizer products).

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraphs (3) and (4) amounts in the Ground Water Protection Trust Fund shall be available, as provided in appropriations Acts, only for the purpose of making expenditures to carry out the goals and requirements of the Ground Water Protection Act.

"(2) TRANSFERS TO GROUND WATER CORRECTIVE ACTION FUND.—The Secretary shall from time to time pay from the Ground Water Protection Trust Fund into the corrective action fund created by section 403 of the Ground Water Protection Act such sums as are necessary to maintain the balance in the

corrective action fund at or in excess of $50,000,000.

"(3) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—The Secretary shall from time to time pay from the Ground Water Protection Trust Fund into the general fund of the Treasury amounts equivalent to—

"(A) credits allowed under sections 4682 or 4683 of chapter 38; and

"(B) credits allowed under section 4697 of chapter 38.

"(4) STATE ENTITLEMENT.—Whenever on the final day of a fiscal year the unexpended balance in the Ground Water Protection Trust Fund exceeds $300,000,000 each State shall be entitled to a portion of the funds exceeding $300,000,000 which shall be equal to that portion of the national population relying on ground water for household needs which reside in such State provided only that the Governor of such State certifies by letter to the Secretary that funds allotted to the State under this paragraph will be used solely for programs that would otherwise be eligible for support according to the provisions of the Ground Water Protection Act. There are hereby appropriated from the Ground Water Protection Trust Fund such sums as are necessary to fulfill the entitlement granted by this paragraph in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Ground Water Protection Fund (as the result of the operation of section 403 of the Ground Water Protection Act or other rule of law) may be paid only out of such Trust Fund.

"(2) CLAIMS.—If at any time the Ground Water Protection Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9508 the following new item:

"Sec. 9509. Ground Water Protection Trust Fund.".

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

(b) WATER WELL REPLACEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 9509 the following new section:

"SEC. 9510. WATER WELL REPLACEMENT 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 "Water Well Replacement Trust Fund" consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFERS OF TRUST FUND.—There are hereby appropriated to the Water Well Replacement Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4691 (relating to an assessment on the sale or delivery of water); and

"(2) amount received in the Treasury and collected under section 404(d) of the Ground Water Protection Act.

"(c) EXPENDITURES.—Amounts in the Water Well Replacement Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making expenditures to carry out the purposes of section 404 of the Ground Water Protection Act, provided that expenditures made in each State shall not be less that 85 per centum of the revenues received to the trust fund from such State.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Water Well Replacement Trust Fund (as the result of the operation of section 404 of the Ground Water Protection Act or other rule of law) may be paid only out of such Trust Fund.

"(2) CLAIMS.—If at any time the Water Well Replacement Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9509 the following new item:

"Sec. 9510. Water Well Replacement Trust Fund.".

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

(c) COMMUNITY WATER SUPPLY MANAGEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 9510 the following new section:

"SEC. 9511. COMMUNITY WATER SUPPLY MANAGEMENT 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 "Community Water Supply Management Trust Fund" consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the Community Water Supply Management Trust Fund amounts equivalent to the taxes received in the treasury under section 4686 (relating to the disposal of solid waste).

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) amounts in the Community Water Supply Management Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making grants to local ground water management districts as provided in section 703 of the Ground Water Protection Act.

"(2) TRANSFERS FROM THE TRUST FUND FOR CERTAIN CREDITS.—The Secretary shall from time to time pay from the Community Water Supply Trust Fund into the general fund of the Treasury amounts equivalent to credits allowed under section 4687 of chapter 38.

"(3) DISTRICT ENTITLEMENT.—Whenever on the final day of a fiscal year the unexpended balance in the Community Water Supply Management Trust Fund exceeds $20,000,000, each qualified local ground water management district (as defined in section 703 of the Ground Water Protection Act) shall be entitled to a portion of the funds exceeding $20,000,000 which shall be equal to that portion of the national population residing in qualified ground water management districts which reside in such district provided only that the chairman or president of the governing board of the district certifies by letter to the Secretary that funds allotted to the district under this paragraph will be used solely for programs that would otherwise be eligible for support according to the provisions of the Ground Water Protection Act. There are hereby appropriated from the Community Water Supply Management Trust Fund such sums as are necessary to fulfill the entitlement granted by this paragraph in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9510 the following new item:

"Sec. 9511. Community Water Supply Management Trust Fund.".

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 906. AUTHORIZATIONS.

(a) For the purpose of developing guidance, standards, requirements and regulations to carry out the provisions of sections 301, 302, 303, 210 and 211 and other provisions of this Act there are authorized to be appropriated to the Environmental Protection Agency $90,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(b) For the purpose of issuing and supervising permits pursuant to section 306 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992 and 1993.

(c) For the purpose of conducting monitoring and data collection and management programs to carry out the provisions of section 210 of this Act there are authorized to be appropriated to the Environmental Protection Agency $30,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(d) For the purpose of conducting compliance monitoring and taking enforcement action with respect to the requirements of this Act there are authorized to be appropriated to the Environmental Protection Agency $40,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(e) For the purpose of providing training and technical assistance pursuant to section 701 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(f) For the purpose of carrying out the research and development activities authorized by section 601 of this Act there are authorized to be appropriated to the Environmental Protection Agency $40,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(g) For the purpose of carrying out the activities of the ground water research committee established by section 602 of this Act there are authorized to be appropriated to the Environmental Protection Agency $1,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(h) For the purpose of carrying out control technology development activities pursuant to section 603 of this Act there are au-

thorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(i) For the purpose of making grants to the ground water research institutes established by section 604 of this Act there are authorized to be appropriated to the Environmental Protection Agency $11,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(j) For the purpose of carrying out research activities pursuant to section 605 of this Act there are authorized to be appropriated to the Department of Agriculture $6,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(k) For the purpose of developing ground water protection standards including health and environmental testing to support such standards there are authorized to be appropriated to the Environmental Protection Agency and to the Ground Water Protection Standards Board $25,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(l) For the purpose of conducting the national ground water quality assessment pursuant to section 202 of this Act there are authorized to be appropriated to the Geological Survey $10,000,000 for each of the fiscal years ending September 30, 1989, 1990 and 1991.

(m) For the purpose of making general purpose and other ground water protection grants to the States pursuant to section 702 of this Act there are authorized to be appropriated to the Environmental Protection Agency $150,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(n) For the purpose of making grants to the States to conduct ground water resource investigations and to prepare plans for statewide resource characterizations pursuant to section 204 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(o) For the purpose of making grants to the States to conduct special purpose hydrogeological investigations there are authorized to be appropriated $10,000,000 in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(p) For the purposes of developing inventories of sources or potential sources of ground water contaminants pursuant to section 207 there are authorized to be appropriated to the Environmental Protection Agency $10,000,000 in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

(q) For the purpose of conducting a contaminated and abandoned well inventory pursuant to section 209 there are authorized to be appropriated to the Environmental Protection Agency $3,000,000 in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

(r) For the purpose of making grants to the States to support activities with respect to the identification of wellhead protection areas pursuant to section 304 there are authorized to be appropriated to the Environmental Protection Agency $25,000,000 in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

(s) For the purpose of making grants to the States to test and treat water supplies pursuant to section 404 there are authorized to be appropriated to the Environmental Protection Agency from the Water Well Replacement Trust Fund created by section 905 of this Act $125,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(t) For the purpose of taking corrective action pursuant to section 403 of this Act there are authorized to be appropriated to the revolving fund created by subsection (o) of such section from the Ground Water Protection Trust Fund created by section 905 of this Act $50,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

(u) For the purpose of making grants to ground water management districts pursuant to section 703 of this Act there are authorized to be appropriated to the Environmental Protection Agency from the Community Water Supply Management Trust Fund created by section 905 of this Act $175,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

(v) For the purpose of making grants to the States to sample and analyze water supplies pursuant to section 210 and 702(g) of this Act there are authorized to be appropriated to the Environmental Protection agency $25,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992, and 1993.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

Mr. CHILES. Mr. President, I am pleased to advise the Senate that the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold its fiscal year 1989 public witness hearings on the following dates: May 17, 18, 19, 24, 25, 26, and June 7, 8, and 9. The first day of hearings will include any testimony from Members of Congress.

The deadline for interested groups and individuals to submit their testimony is Monday, March 21. All requests must be in writing and should be addressed to me in care of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, Senate Dirksen 186, Washington, DC 20510.

Those persons whose requests are received by March 21 will receive a letter providing instructions for their appearance before the subcommittee.

In addition, the deadline for those who wish to submit statements for the hearing record will be Friday, June 16. Such statements must be no longer than five double-spaced pages, and three copies should be sent to me in care of the subcommittee.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Tuesday, March 1, 1988, at 9:30 a.m., in SDG50 to receive testimony on hunger in America, the Temporary Emergency Food Assistance Program and general nutrition issues.

For further information, please contact Ed Barron of the committee staff at 224-2035.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Monday, February 29, at 2 p.m., in room 342 of the Dirksen Senate Office Building, on S. 1014, the Federal Civil Penalties Inflation Adjustment Act of 1987.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that field hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearings will take place March 10, 11, and 12, 1988, beginning at 9 a.m. The hearings will be held in Idaho Falls, Boise, and Coeur d'Alene, ID respectively.

The purpose of the hearings is to hear testimony on S. 2055, a bill to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formula for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes.

Those wishing further information about the hearing should contact the office of Senator JAMES MCCLURE in Boise at (208) 334-1560 or Beth Norcross of the subcommittee staff in Washington, DC at (202) 224-7933.

Mr. BUMPERS. Mr. President, I would like to announce for the public that hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearings will take place on March 21 and 22, 1988, beginning at 9:30 a.m. and concluding at approximately 12 noon in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on two bills currently pending before the Subcommittee. The two measures are:

H.R. 2090 and S. 1479—bills to designate certain National Forest System lands in the State of Montana for release to the forest planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes.

It is likely that it will be necessary to limit the number of witnesses appearing at each hearing. It is also likely that oral statements will be limited to 5 minutes each. Individuals are encouraged to submit written state-

ments which will be included in the official hearing record. If you would like to submit a statement, please send it to the Subcommittee on Public Lands, National Parks and Forests, 364 Dirksen Senate Office Building, Washington, DC.

For further information regarding the hearings, please contact Tom Williams of the subcommittee staff, at (202) 224-7145.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold hearings on Tuesday, March 1, at 9:30 a.m., on Nutrition Monitoring. For further information, please call Len Weiss, staff director, on 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to hold an oversight hearing on the barriers to Indian participation in Government procurement contracting.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on February 23, 1988, to hold a hearing on S. 1347, child abduction.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on February 23, 1988, to hold a hearing on S. 1515, attorney fees; S. 1515, injunctive relief; and section 614 of S. 1482, Judicial Branch Improvement Act of 1987.

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Affairs, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to hold hearing on H.R. 3400, Hatch Act amendments.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE AND SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, and the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, February 23, to conduct a joint hearing on S. 20, the Ground Water Protection Act; S. 1105, the Ground Water Research Act—also introduced as amendment 178 to S. 20—and H.R. 791, the National Ground Water Contamination Research Act of 1987.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to receive testimony concerning S. 2042, to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on February 23, 1988, to hold hearings on S. 1989, the South Pacific Tuna Act of 1987 and S. 1695, Legislation To Reauthorize the Fishermen's Protective Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to conduct a hearing on "Smart Start"—Early Childhood Education Program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 24, 1988, to hold a business meeting—pending calendar business. See attached agenda.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, February 25, 1988, at 9 a.m. to hold an oversight hearing on the fiscal year 1989 budget for Indian programs.

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

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 25, 1988, to hold a hearing on the nomination of Mark Sullivan to be General Counsel of the Treasury Department.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be authorized to meet during the session of the Senate on Thursday, February 25, 1988, to hold a business meeting pending calendar business. See attached agenda.

The PRESIDING OFFICER. Without objection, it is so 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 February 25, 1988, to hold a hearing on judicial nominations.

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

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, February 25, 1988, to examine S. 1993, the "Minority Business Development Program Reform Act of 1987;" and H.R. 1807, the "Capital Ownership Development Reform Act of 1987."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 25 to hold a nomination hearing—Eugene McAllister.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday,

February 25, 1988, to continue oversight hearings on the Federal Reserve's first monetary policy report for 1988.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on February 25, 1988 to hold oversight hearings on developments in alcohol and drug testing.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 25, to conduct a hearing on speed limit issues.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 25, to conduct a hearing on S. 1979, a bill to establish the Grays Harbor National Wildlife Refuge in the State of Washington.

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

ADDITIONAL STATEMENTS

UNITED NATIONS COMMISSION ON HUMAN RIGHTS TO CONSIDER EAST TIMOR QUESTION

● Mr. LEVIN. Mr. President, for nearly a decade I have been very concerned about persistent reports of human rights abuses in the former Portugese colony of East Timor. This island territory was invaded and annexed by Indonesia over 12 years ago with tragic consequences for its citizens. Since the Indonesian invasion, it is estimated that over 100,000 East Timorese out of a population of less than 700,000 have died as a result of warfare, hunger, disease, and extrajudicial executions.

I wish I could say that time has healed East Timor's wounds. Unfortunately, accounts from human rights organizations such as Amnesty International and Asia Watch as well as compelling testimony from eye witnesses lead me to believe that intense suffering in East Timor is far from over.

In recent years I have supported Senate initiatives on the East Timor issue, and I am prepared to make further efforts in the future aimed at keeping East Timor on the United States foreign policy agenda. But the East Timor problem is also an international one, and requires an international effort beyond the scope of what one country can do alone.

The United Nations Commission on Human Rights is meeting this month in Geneva, and is expected to take up the East Timor question. I urge Commission members to follow the lead of the Subcommission on Prevention of Discrimination and Protection of Minorities, which in September 1987 adopted a reasonable and balanced resolution on East Timor. This resolution talks about "new allegations * * * regarding the violations of human rights to which the people of East Timor continue to be subjected," and recommends that the Human Rights Commission "study carefully at its—upcoming—session the evolution of the situation of human rights and fundamental freedoms in East Timor."

Continuous international activity in forums like the Human Rights Commission can ameliorate the humanitarian and human rights situation in East Timor, and might represent the best hope for a long-term solution to the East Timor question.

Mr. President, I ask that the text of the Subcommission resolution be printed in the RECORD following my remarks. For the benefit of our colleagues, I am also submitting for the RECORD printed testimony from the U.N. Sub-Commission's meeting last September. This testimony was given by a Timorese witness who was only 13 years old when Indonesia invaded East Timor in 1975. It makes for chilling reading. Responsible experts believe that such testimony represents only a tiny fraction of what is continuing to happen in East Timor. I ask that this testimony may be printed in the RECORD.

The material follows:

RESOLUTION

1987/13 *The situation in East Timor,* [1]

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the universally accepted rules on international humanitarian law,

Recalling its resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983 and 1984/24 of 29 August 1984 concerning the situation in East Timor,

Preoccupied by new allegations put forward regarding the violations of human rights to which the people of East Timor continue to be subjected because of the situation which persists in the territory,

Taking note with satisfaction of the continuous spirit of co-operation of which the authorities have given proof in order to facilitate the reunification of families,

1. *Welcomes* the action taken by the Secretary-General regarding the question of East Timor,

2. *Requests* the Secretary-General to continue his efforts to encourage all parties concerned, that is the administrating Power, the Indonesian Government and the East Timor representatives, to co-operate in order to achieve a durable solution taking into full consideration the rights and wishes of the people of East Timor;

3. *Requests* the Indonesian authorities to facilitate without restrictions the activities of humanitarian organizations in East Timor;

4. *Recommends* therefore to the Committee on Human Rights to study carefully at its forty-fourth session the evolution of the situation of human rights and fundamental freedoms in East Timor.

[1] Adopted at the 34th meeting on 2 September 1987, by 6 votes to 4, with 9 absentions.

U.N. SUB-COMMISSION, SEPTEMBER 1987—ITEM 9

ORGANISATION: NAILS—NATIONAL ABORIGINAL AND INDIGENOUS LEGAL SERVICES

Testimony on Torture in East Timor

Mr. Chairman, it has been stated in this Sub-Commission many times in the past, especially by representatives of the NAILS Organisation, that foreign domination and occupation result almost inevitably in systematic violations of basic individual rights.

I am a Timorese and the first to speak on behalf of this organisation.

I was 13 years old when Indonesian military forces invaded East Timor. Following the invasion, I fled to the bush with the resistance. Later I was captured by the Indonesian forces. I was then sent to a prison called Komarka, in Dili in 1980. I was held there until being transferred to the island of Atauro on 3rd September. In July 1984, I was released. I started working with the Indonesian Red Cross in 1985 and at the beginning of 1987 arrived in Portugal under the family reunification programme.

Mr. Chairman, for 12 years, I personally witnessed a great number of arbitrary executions, imprisonment, and torture, evidencing a systematic disregard for the most essential civil and political rights of the East Timorese.

In 1978-1979 the Indonesian armed forces carried out a large scale offensive against the East Timorese resistance and the civilian population.

Part of my family were with me in the bush. We were all concentrated in one area and incendiary bombs were dropped on us. I managed to escape but my brother was killed during a fight. One of my sisters disappeared during the intense bombardement and my family and I never saw her again.

In 1980 I was arrested by Indonesian troops and subjected to interrogations and torture. Every Indonesian guard used his own method of torture to force me to admit to crimes. Different methods of torture were used:

I was beaten by gun butts and kicked.

My hands and feet were tied up and I was pushed into a tank of water head first and held under water by the feet for up to 2 minutes. Then I was pulled up again and interrogated. As long as I did not confess, the same operation was repeated. Once I confessed in my near drowning state, more

questions were asked and torture was used again.

I was tied up and two small types of crocodiles (buaya Kecil) were tied to my body. When the tails of the animals were pulled, they scratched, clawed and bit me, digging their nails and their teeth into my skin. During this time I was asked further questions.

I saw my friends being tortured too. I saw them subjected to electric shocks, beaten by iron and wooden rods, their toes being placed under a table leg with soldiers and officials sitting on top of the table, cigarettes extinguished on the skin, in the ears and on the sexual organs. They were also kicked with heavy leather boots in the chest.

I was then taken to a secret prison (Komarka). I was locked up in a very small cell, 1m. by 2m. with 9 people. I could not sleep and I did not know whether it was night or day. I was given only a spoonful of rice per day. From time to time, the guards opened the door and called one prisoner out. I never saw them again.

Later, I was taken to Aturo island with my friends and I was there for four years. I was not allowed to speak with foreign people who were brought by military helicopters. During an Australian delegation visit, I and my fellow prisoners were brutally beaten and threatened with being shot because we dared speak with them. The same event happened when Portugese journalists visited the island of Atauro, after they returned, four of my fellows were tortured and sent to Komarka prison. I was starving; all we had to eat was a small tin of corn for a whole week. I did not have any medical treatment when I fell sick. I was often beaten when I arrived late for work.

There are many other prisons in Dili, Aileu and other parts of the territory, with small numbers of prisoners. I, myself had entered in one of these prisons without the knowledge of the troops and I saw 6 prisoners with swollen faces and other signs of ill-treatment. Every two months, the troops checked at mid-night the homes of the population; suitcases, identification cards, wardrobes were all checked.

I am concerned about the fate of my friends who are still in East Timor. I have personally witnessed and been a victim of the gross violations of human rights resulting from the Indonesian government's efforts to consolidate its dominaton of East Timor, and I believe that, until the genuine wishes of the East Timorese people themselves are respected, the suffering will continue.

Thank you Mr. Chairman.●

BICENTENNIAL MINUTE

FEBRUARY 23, 1944: THE MAJORITY LEADER RESIGNS

(By request of Mr. SIMPSON the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, a majority leader of the United States dramatically resigned 44 years ago today, on February 23, 1944. Senator Alben Barkley of Kentucky had been Democratic leader of the Senate since 1937 and a loyalist for the administration of Franklin D. Roosevelt, but he was outraged over the harsh language of the President's veto of a tax bill he supported.

Journalist Allen Drury recorded in his journal the scene as rumors spread and the Senate gallery and floor began to fill:

For almost 45 minutes, point by point, the majority leader denounced the veto message and the man who sent it to The Hill. In a speech that very evidently came from the heart and at times rose to heights of moving passion and sincerity, he repudiated the President whose errand boy in the upper House he had been for 7 years.

Barkley announced that he intended to resign as majority leader and then urged Congress to override the President's veto "if it has any self-respect yet left."

Senators from both sides of the aisle stood to applaud and rushed to gather around Barkley to congratulate him. Not only did the Senate and House overwhelmingly vote to override the veto, but the next day the Democratic conference voted unanimously to reelect Barkley as majority leader. Utah Senator Elbert Thomas told reporter Drury that for years Barkley had given the impression that he spoke to the Senate for the President, but that now that he had been unanimously reelected, "he speaks for us to the President."

However, there is a historical coda to this story. In July 1944, when the Democrats met in convention, they sought a Vice Presidential candidate to run with Roosevelt for his fourth term. Many believed that Alben Barkley would have been the odds-on favorite had he not broken with Roosevelt just 5 months earlier. The convention chose Senator Harry Truman instead, and within 1 year Truman, not Alben Barkley, was President of the United States.●

THE PLIGHT OF THE FAMILY OF EVGENY LEIN

● Mr. MCCONNELL. I rise today to bring to the attention of my colleagues the plight of Evgeny Lein and his family. Evgeny has been considered a refusenik in the Soviet Union since 1978.

Five of my colleagues in this body joined me in sending a September 16, 1987, letter to General Secretary Gorbachev appealing for expedited emigration of the Leins. I would like to expand upon the details included in that letter so that all the Members of this body will be aware of the Leins' extraordinary struggle for freedom.

The Leins first applied for an exit visa in the spring of 1978. His request was denied 4 months later on the grounds that Evgeny had "access to classified materials." He was subsequently dismissed from his position as a research scientist as was his wife, Irina, who worked for the Institute of Biology.

Since 1977, Evgeny has attended seminars on Jewish history. In 1981, he was atttending one such seminar in a private apartment when the authorities invaded the seminar and arrested several participants. While his wife called his arrest a "tactic in the KGB tyranny," others felt it was an act of revenge by local police. Apparently, in 1980, Evgeny had defied local police and persisted in bringing to trial two men who had attacked his daughter. Evgeny was sentenced to 2 years of compulsory labor for allegedly "resisting a representative of authority." He was uncharacteristically released after less than a year, in part because his knowledge of the law helped him identify 20 legal infractions in his trial.

He later joined 19 other refuseniks in writing to the President of the Supreme Soviet saying their desire to go to Israel "is not more than a demand for a home." They added that they held "no grudge against the U.S.S.R."

In June 1984, Israel Radio mentioned Evgeny and Irina, drawing attention to Irina's health and Evgeny's deteriorating hearing problem. Five months later, Evgeny was severely beaten about the head and face; his assailants concentrated on his good ear. In addition, they threatened that he would be charged with resistance to authorities and sentenced to 4 more years in prison.

I know that most, if not all, of my colleagues share my concern about this disregard for human rights and dignity. I am hopeful that by continuing to call attention to the plight of refuseniks like the Leins, they will someday be afforded the opportunity to join their families outside the Soviet Union.●

ESTONIAN ANNIVERSARY

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, tomorrow marks the 70th anniversary of the declaration of independence of the Republic of Estonia. On this historic occasion I would like to bring to the attention of this body the situation of the Estonian people.

On February 24, 1918, the independence of Estonia was formally declared. However, this independence was lost in 1939 when Hitler secretly agreed to give all three of the Baltic States to the Soviet Union.

From 1939-49 there was armed resistance in Estonia against Soviet occupation. Though there is no longer armed resistance in Estonia, the will and the spirit of the people is not broken. All of us in this body hope to see Soviet reforms extended to Estonia and the other Baltic republics.

I applaud the courage and resilience of the people of Estonia, and I commend Estonian Americans for bringing the plight of those still living under

Soviet occupation in Estonia to our attention.●

GREECE AND TURKEY RELATIONS

● Mr. LUGAR. Mr. President, the relations between Turkey and Greece, two key NATO allies, have been tense over the past several years. Much of this tension stems from differences over Cyprus on the one hand, and over conflicting claims of both countries in the Aegean on the other. These difficulties have longstanding historical roots, and have affected our bilateral relations with our two allies.

Therefore, I am particularly pleased that a significant diplomatic breakthough toward improvement of bilateral relations between Greece and Turkey took place recently in Davos, Switzerland, were Prime Minister Turgut Özal and Prime Minister Andreas Papandreou met on January 30-31, 1988. It is a welcoming development that the calls for dialog found a positive response and that Davos encounter was successful.

In Davos, the two leaders expressed their joint determination to avoid future bilateral crises, and to move in a careful and thoughtful manner to eliminate differences between them. They agreed to establish two committees: One would help to build confidence and trust through increasing economic, trade, tourism, and cultural ties; and the other would help to define and eliminate particular problem areas. The two leaders also agreed to meet at least once a year in reciprocal visits beginning with Prime Minister Özal's visit to Athens as early as this summer.

I congratulate these two leaders on these hopeful steps, and encourage them to build upon this initative to break down the barriers between the two nations. I have included the text of the communique issued at the conclusion of the meeting for the information of all Members.

The text of the communique follows:

THE TEXT OF THE PRESS COMMUNIQUE RELEASED FOLLOWING THE MEETINGS BETWEEN TURKISH PRIME MINISTER TURGUT ÖZAL AND THE GREEK PRIME MINISTER ANDREAS PAPANDREOU ON 30TH and 31ST of January 1988 IN DAVOS, SWITZERLAND

1. The Prime Ministers of Greece and Turkey met twice in Davos, Switzerland, on January 30-31, 1988, and discussed issues of mutual concern in an atmosphere of understanding and goodwill.

2. The Prime Ministers observed that cumulated problems created in time due to different approaches are, at times, exploited by certain circles. It is imperative that this should not be permitted. They agreed that closing the gap between these differences will require time, goodwill and hard work.

3. The Prime Ministers gave their views of Turco-Greek relations, starting from a historic perspective and their deterioration in time. they further elaborated on the recent crisis in the Aegean which brought the optimism introduced as a consequence of exchange of messages between them. They agreed that from now on such a crisis should never be repeated and both sides must concentrate their efforts for the establishment of lasting peaceful relations.

4. The Prime Ministers agreed that rigid frames of mind have been created in various segments of their societies in relation to existing issues. They noted that this is the case even in textbooks. They noted also with regret some recent statements of officials not conducive to an improvement of relations between the countries.

5. The Prime Ministers reiterated their respective positions on issues of bilateral and regional interests.

6. They nevertheless underlined that a thaw and rapprochement between the two countries would require determination, sustained efforts and building of confidence for which two sides should move to a common ground, in order to create an environment conducive to working out lasting solutions.

7. The Prime Ministers agreed to establish two committees: one to explore the areas of cooperation such as economic cooperation, joint venture trade, tourism, communications, cultural exchanges and one to define the problem areas, explore the possibilities of closing the gap and move towards lasting solutions, the progress of which will be reviewed by the two Prime Ministers. In this regard, they agreed to initiate, encourage and increase contacts among civilian and military officials, members of the press and businessmen and to establish a business council or a joint chamber of commerce and industry.

8. The Prime Ministers also accepted to meet at least once a year and to make a reciprocal visits to their countries and agreed to set up a direct telephone line. They also agreed that the Ambassadors of the two countries to international organizations should increase contacts with a view to improving cooperations.

9. Finally, both Prime Ministers expressed their satisfaction in the frank and open discussions which took place among themselves and reiterated their conviction that creation of improved relations and confidence would require resolve, time and hard work".●

WILLIAM W. BISHOP, JR.

● Mr. LEVIN. Mr. President, I rise today in sadness and respect because on December 29 a great and gentle man died in Ann Arbor.

He was William W. Bishop, Jr., the Edwin D. Dickinson professor of law emeritus of the University of Michigan Law School. His field was international law and for decades he was truly one of the giants.

Born in 1906, Professor Bishop received both his bachelor's degree and his law degree from the University of Michigan. During World War II, he was an assistant legal adviser in the Department of State and in 1948 returned to Ann Arbor and joined the faculty of the University of Michigan Law School.

During his tenure, Professor Bishop authored a casebook on international law which was for years the most widely used international law casebook in the country. He served as editor-in-chief of the prestigious American Journal of International Law for 10 years. He received many honors during his long and distinguished career, including the University's Distinguished Faculty Achievement Award in 1965. He also served on a vast number of committees, boards, and panels both in the United States and abroad. He was, as Lee Bollinger, the dean of the law school said, "a towering figure in international law."

He was also a leader in the Boy Scouts and a devoted family man. His beloved Mary, his wife of 32 years, died in 1979. He is survived by his daughter, Dr. Elizabeth S. Bishop, of East Lansing.

Although his achievements are many, they cannot begin to measure his true impact. Bill Bishop was a scholar of the first rank—a fact recognized throughout the international legal community. But he also had a special gift for teaching. He not only knew his subject matter thoroughly, he cared deeply about it. He cared about his students and they knew it. His courses were always among the most popular at the law school.

Professor Bishop inspired and enriched generations of students from this country and around the world. Many of his students hold important positions in private practice, Government and teaching. He kept in touch with many of them long after they left Ann Arbor. They remained his friends and he continued to inspire them throughout his life. I know they are trying to practice, and pass on to others, his intellectual curiosity, warmth, deep human kindness and commitment to the rule of law. That is the legacy of a great teacher.

Professor Bishop also recognized that, as a scholar and teacher of international law, he had a particular duty to foster the rule of law in international relations. He believed firmly that all States, but especially the United States, has an obligation to work toward a world where law, not force, governed. But he was no dreamer. His experiences in the Department of State gave him a keen appreciation of the limitations of our present international legal order.

In 1981, the American Society of International Law celebrated its 75th anniversary and asked Professor Bishop to reflect on the changes that had occurred during those 75 years. In his remarks, Professor Bishop observed:

We must recognize that law cannot coerce states in matters of primary political importance, unless there is a sufficiently strong feeling of international political community. Law cannot bring order when there is not enough common will to keep the peace. . . . Meanwhile, of course, international law can be, and is, a most useful instrument for giving effect to policies upon which there is common agreement, but it cannot succeed if

it gets too far ahead of the actual feelings and attitudes of the states concerned. With our international society what it is, we must think of international law chiefly in terms of agreement rather than coercion.

This clear eyed assessment, however, did not diminish his "cautious optimism," as he once said, that the world will gradually turn to law, not force, as the foundation for human conduct. And he conveyed this vision—this hope—to generations of students. Literally thousands of students were touched and enriched by this special man. All of us, in America and around the world, are a step closer to a more peaceful and ordered world because of Bill Bishop.●

200TH ANNIVERSARY OF MOUNT PLEASANT, NEW YORK

● Mr. D'AMATO. Mr. President, 1988 is a year of bicentennial celebrations, and March 7, 1988 is one date to note. This marks the 200th anniversary of the town of Mount Pleasant, NY, in Westchester County.

Prior to its establishment as a township, the town of Mount Pleasant had been a European settlement formed by Lord Frederick Philipse, a Dutchman, in 1683. After the Revolutionary War, the lands were confiscated by the State and sold to 287 separate owners. The State legislature then established Mount Pleasant as one of the original towns of New York on March 7, 1788.

The town's development began with the initiation of rail service in 1846. Manufacturing facilities began to appear, and although most were along the river in North Tarrytown, employment also was available further east at shoe factories, pickle factories in Pleasantville, a lumber mill, a limestone quarry in Thornwood, and eventually the Kensico Dam in Valhalla.

The Rockefeller family settled in Pocantico Hills in 1890 where they accumulated 2,800 acres of land within Mount Pleasant. From this family came the town's most famous citizen, former Vice President of the United States and former Governor of the State of New York—Nelson A. Rockefeller.

Today, Mount Pleasant is the third largest town in Westchester with a population of 42,000. The town covers 25 square miles, including the villages of Pleasantville and North Tarrytown, a portion of the village of Briarcliff Manor, and an unincorporated area of 21.5 square miles. It borders the Hudson River on the west, the towns of Greenburgh on the south, Ossining and New Castle on the north, and North Castle on the east.

Mount Pleasant has a rich enduring past and a bright foreseeable future. Its residents have much to be proud of, and I share that pride in representing them in this body.●

LITHUANIAN ANNIVERSARY

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, on February 16, 1988, the people of Lithuania—and Lithuanian Americans with them—celebrated their 70th anniversary of independence. I would like to take this opportunity to express my support of this historic occasion.

Lithuania's independence was proclaimed on February 16, 1918, but ended 22 years later with the Soviet takeover of that country. Since 1940 the celebration of Lithuanian Independence Day has been hindered by Soviet official hostility. It is unfortuante that this seems to have also been the case for the 70th anniversary.

Reports from Lithuania indicate that heavy police presence prevented any peaceful demonstrations from taking place. The police show of force took place despite the fact that Mikhail Gorbachev received an appeal from 200 Lithuanians asking him to allow peaceful demonstrations to proceed without interference.

The inability of the Lithuanian people to mark such an important occasion as the 70th anniversary of their independence casts a shadow on Mr. Gorbachev's stated policy of openness. The suppression of the Lithuanian peope also violates the Helsinki accords which the Soviet Union freely signed. It is simply unacceptable for Moscow to fail to live up to its international obligations.

I am pleased to cosponsor Senate Joint Resolution 249, which declares June 14, 1988 "Baltic Freedom Day." This resolution will again reassure the Baltic people of U.S. support as they continue to test the limits of glasnost. In addition to this action 33 Members of this body sent a letter to General Secretary Mikhail Gorbachev urging him to allow the Baltic peoples to peacefully honor their national independence days. We also asked the Soviet leader to take all necessry measures to guarantee that the people of the Baltic do not become targets of state-sponsored harassment.

Mr. President, I have been proud to sponsor such measures as "Lithuanian Independence Day," "Polish American Heritage Month," "Baltic Freedom Day," and other important commemorative resolutions. America is enriched by people from all walks of life and all backgrounds, and we are strengthened from our Nation's great diversity.●

CHIANG CHING-KUO

● Mr. KASTEN. Mr. President, one of the greatest international success stories of the last 40 years is the survival and liberalization of the anti-Communist regime of Taiwan. The passing of Chiang Ching-Kuo is an occasion for all of us to remember how much progress Taiwan made under his leadership—and how much more progress the Taiwanese people expect to see under his democratic successors.

Democracy has survived in Taiwan thanks to the perseverance and commitment to principle of its statesmen. This perseverance has been exemplified by the career of Dr. Fred Chien, the former senior Vice Foreign Minister of the Republic of China who is currently the chief Taiwanese representative in the United States.

Dr. Chien has articulated his experience and basic beliefs in an important article in the Central Daily News of Taipei, which has been made available to me in an English translation by Dr. Nathan K. Mao. I think the article, addressed to Taiwan's young people, will be helpful to my colleagues, and I ask that it be entered in the RECORD.

The article follows:

PERSEVERANCE: A MESSAGE FOR THE YOUNG

(By Representative Fred Chien)

Wang Yang-ming, a Ming dynasty sage, said, "Perseverance is key to work." His words are simple but profound in meaning. In the last few years I have deeply felt the wisdom embedded in his saying and I wish to share my experiences with my young friends.

It has been four years and ten months since my appointment in January, 1983, to Washington as Representative of the Coordination Council for North American Affairs. Prior to 1983, there had been several years during which the relationship between the Republic of China and the United States was in an extremely difficult stage. My countrymen were severely affected psychologically; my colleagues and I in the Foreign Service were on the front lines directly facing diplomatic setbacks. During many critical moments, we sensed our young friends' deep concern and interest in their country. I was particularly moved when I witnessed the ardent desire and eagerness of many young people to offer their services to their country, especially those who were still in school. Their heartfelt desire to serve fastened my heartstrings. Many evenings, after a full day of negotiations, I felt physically and mentally exhausted, but whenever I saw the images of young men and women, earnest and eager to help, I realized that my countrymen had high expectations of me, a member of the Foreign Service. A gush of fresh energy surged and charged my body, enabling me to return to work.

Before leaving Taipei, I was aware of my countrymen's high expectations. But as I reviewed the past and looked towards the future, I felt overwhelmed. At that time I declared in all honesty that I was not God but human, as I asked for support and strength from my countrymen. I must admit, with due gratitude, that ever since I became to Washington I have received lots of encouragement from my countrymen both at home and from those overseas. Their continuous support, flowing to me through different tangible and intangible channels, refreshed me from head to toe.

Indeed I was really a novice in Washington, a city where it was known to be difficult to make friends. Although I had been in the Foreign Service for many years and

has many friends in Washington, I felt inexperienced in Washington's social circles. I was scared and yet pleased in my role as Republic of China's Washington Representative.

Because of my country's special status in the United States, we had no ideas as to what we could do or could not do and whether we should have a high or low profile. On the other hand, all those official functions with their built-in protocol niceties did not affect us. Just like the Bible says, one door is closed by God, yet another and still another door is open. Although I do not have an official title, I was spurred by a daring frame of mind characteristic of my younger days. With the full cooperation of everyone, my colleagues and I took the initiative to make friends, slowly and assiduously building our base.

From that time on, I became more and more willing to accept the challenges of my work. I not only learned that an individual's or a group's ability to face adversities becomes stronger through perseverance, I also learned that our country is full of vitality. Despite repeated tribulations and setbacks, we conquered one difficulty after another and emerged triumphant in a totally new image when all sectors of our society worked as one cohesive unit.

To faithfully relay Republic of China's developments in the last four years and ten months I left Washington for out-of-town speaking engagements to different groups and organizations at least forty-five to fifty times a year, not counting informal sessions where I made impromptu remarks. All in all, I have only one objective: to deepen the U.S. public's understanding of our country and to strengthen their friendship for us. Every time I give a speech I use the lastest figures and facts, revealing what is progressive, open and new in our society. I fully understand that out figures of prosperity, our democratic growth, our increasing confidence and our growing strength are all attributable to our countrymen's hard work, the application of their intelligence and their cooperation with one another. As a messenger for my countrymen I feel encouraged and inspired. It's this gush of youthful strength which enables all my colleagues at the Coordination Council, trying their utmost, to negotiate with U.S. diplomats or any other persons in an effort to achieve fair treatment while maintaining their dignity.

Personally I must confess it is hard for me to be satisfied with myself. In fact, I was a shy youngster and physically uncoordinated. In senior high school a schoolmate tripped and broke my heel while we were playing ball. Even now I can't say I like social functions that much. But for the sake of my work, I try my best to adjust myself. Maybe "to adjust" is not an appropriate expression, because my work today is to adjust myself to the ever-changing situations and enable my audiences to quickly catch my message. When I first arrived in Washington, it was very easy to run into friends who had preconceived ideas about us. I felt it was important to understand why "so-and-so" felt the way he did towards us. Was it because of his personal views, his personal experience, his lack of adequate information or for some other reasons? If his biases could be overcome, efforts would be made immediately. If his views were too deep-seated, I would treat him with sincerity and hope to explain to him later with more facts. Under the rubric of patience, respect and sincerity, my colleagues and I at the Coordination Council complemented one another, helping the U.S. government officials and the general public have an even greater understanding and respect for what's been going on at home.

In recent months, major U.S. newspapers, whether conservative or liberal ones like The Washington Post and The New York Times, have repeatedly extolled our accomplishments in their editorials and op-ed columns. This makes me realize that because our country is moving in the right direction, has flexible and workable policies and because our efforts have been made apparent with facts, the world is becoming more respectful of us and our international status. This recognition has come about only after repeated experiences of being frustrated, humiliated and tested.

What I have said is personal experiences and feelings. It's not anything deep and profound. There's no key to success. I feel that the young today are growing up in comfort and prosperity. But in truth all comfort and prosperity have come about after many others have sweated, bled, and have met with many failures. In the future we will face many types of storms and our difficulties will not be any less than those before. My young friends, if you can consider your personal experiences, societal adversities and your country's diplomatic reverses as object lessons in learning perseverance you will then become stronger as you meet unpleasantness yourself. With an optimistic spirit and a perseverant attitude, you will be more fully prepared to accept all types of challenges. I believe every type of difficulty would only ennoble our situation, earning us even greater respect for our integrity and enhancing our country's international standing.●

THE 1988 CONGRESS-BUNDESTAG STAFF EXCHANGE

● Mr. LUGAR. Mr. President, I am proud to call the Senate's attention to the fifth annual staff exchange program between the U.S. Congress and the West German Bundestag. Since 1983, both countries have conducted this half month program whereby staff members trade roles to observe and learn about the workings of each other's political institutions as well as the issues facing both countries. The staff exchange provides an opportunity for the development of professional friendships which aid greatly in strengthening the relations between our two countries.

The progress and promotion of the Congress-Bundestag Staff Exchange Program is most important to the continued success of our international endeavors. The program, one of several sponsored by the Congress, USIA, and both public and private institutions in the United States and West Germany, fosters a better understanding of the policies and governments of both nations.

Eight congressional staff members will visit Germany this year from April 16–May 1. They will spend about 10 days in Bonn attending meetings conducted by members of the Bundestag, Bundestag staffers, and representatives of political, business, labor, academic, and media institutions. In addition to this, they will spend a weekend in the home district of a Bundestag member. The program will conclude with a visit to Berlin during which the delegates will meet with representatives of the West Berlin government and the U.S. Government representatives in West and East Berlin.

The Bundestag will send a delegation of staffers to the United States in late June of this year for a 3-week period. They will attend meetings in Washington and will visit the districts of Members of Congress over the Fourth of July recess. The German Bundestag sends senior staffers to the United States as well as a number of high ranking Bundestag members.

It is important that we send a delegation of Senate and congressional staffers who are experienced and share a sense of interest and responsibility in political, security, trade, environmental and other such issues as they relate to Europe and the United States. In addition, congressional participants are expected to plan and execute the program for Bundestag staffers when they visit the United States.

Applications for participation in the U.S. delegation will be reviewed initially by the Congressional Staff Group on German-American Affairs, and the final selection will be made by the U.S. Information Agency. Senators and Representatives who would like a member of their staff to apply for participation should direct them to submit a résumé and cover letter to Bill Inglee, House Foreign Affairs Committee, 808 House Office Annex No. 1; or John Parisi, Senate Governmental Affairs Committee, 346 Dirksen Senate Office Building. Applications and letters should be submitted by Tuesday, March 1.

I look forward to the continued success of this particular exchange. The Congress-Bundestag staff exchange affords our congressional assistants an opportunity to gain valuable insight into another political culture. Best wishes to the participants in this upcoming program.●

AMERICAN HEART MONTH

● Mr. WEICKER. Mr. President, as a result of a 1963 congressional resolution, each year since 1964, the President proclaims the month of February as "American Heart Month." In so designating this month, both the Congress and the President demonstrate the seriousness of cardiovascular diseases and stroke—this Nation's leading cause of death.

The American Heart Association reports that in 1988 an estimated 1 million Americans will die as a result of cardiovascular diseases including about 540,000 from heart attacks and approximately 155,000 from strokes.

Moreover, they estimate that nearly 65 million people are afflicted with one or more forms of heart or blood vessel disease.

The National Heart, Lung, and Blood Institute [NHLBI], along with the American Heart Association and others, has made significant inroads in curtailing the mortality rates from these diseases through research, prevention, and education programs. From 1976 to 1986 the death rate from coronary heart disease has fallen by 27.9 percent and that from stroke by 40.2 percent. Much of this decline is attributed to preventive measures, that is, controlling risk factors of cardiovascular diseases including smoking, elevated blood cholesterol, high blood pressure, and diets high in saturated fats and cholesterol. Successful examples in this area include both NHLBI's National High Blood Pressure Education Program and its National Cholesterol Education Program which correspond to AHA's Physicians' Cholesterol Education Program and its Heart RX Program.

While I urge my colleagues to applaud these achievements, I emphasize that much more must be accompanied to eliminate coronary heart disease—still the No. 1 killer in the United States. I encourage support of increased biomedical research including the application of molecular biology to cardiovascular research and of continued studies into both the connection between diet and cardiovascular diseases and the effects of behavior, stress, and physical activity on heart disease.

During "American Heart Month," I salute the American Heart Association and its 55 affiliates and more than 2 million volunteers for their invaluable work. I commend the National Heart, Lung and Blood Institute for its accomplishments and I urge my colleagues to celebrate our research achievements with the dollars that will make health the No. 1 priority in this country.

I ask that this year's Presidential proclamation be printed in the CONGRESSIONAL RECORD.

The proclamation follows:

PROCLAMATION 5762 OF JANUARY 21, 1988

THE PRESIDENT—AMERICAN HEART MONTH, 1988

(By the President of the United States of America)

A PROCLAMATION

For more than half of this century, diseases of the heart and blood vessels collectively called cardiovascular diseases, have been our Nation's most serious health problem. Last year, these diseases claimed 973,000 lives, and they caused serious and sometimes permanent illness or disability in still more Americans. Within this family of diseases, the leading killers remained coronary heart disease, which accounted for 524,000 deaths, and strokes, which accounted for 148,000 deaths.

Grim though these statistics may be, other statistics indicate that a corner may have been turned in 1965. Since then, mortality rates for all cardiovascular diseases, and especially for the two leading killers—coronary heart disease and stroke—have been moving steadily downward. For example, since 1972, mortality rates for all cardiovascular diseases combined have fallen by 34 percent, and those for coronary heart disease and stroke have declined by 35 percent and 50 percent respectively.

One major reason for the decline in cardiovascular mortality rates is that more and more Americans are modifying their habits in the direction of better cardiovascular health. Research has identified factors that increase vulnerability to premature coronary heart disease or stroke, and millions of Americans are acting on that knowledge to eliminate or ameliorate the risk factors that can be modified. These include high blood pressure, diabetes, obesity, and sedentary living. The National Heart, Lung, and Blood Institute, encouraged by the success of its National High Blood Pressure Education Program, has now launched similar programs against two other major risk factors: cigarette smoking and elevated blood cholesterol.

Today, the person stricken with a heart attack has a much better chance of surviving the acute episode, thanks to continued improvement in diagnosis and treatment. More and more of the stricken are reaching the hospital alive, thanks to better recognition of ominous symptoms, widespread teaching of cardiopulmonary resuscitation by the American Red Cross and the American Heart Association, and better-equipped emergency vehicles with better-trained crews.

Many individuals and organizations have contributed to the past four decades of progress against cardiovascular diseases. However, two organizations—the federally funded National Heart, Lung, and Blood Institute and the privately supported American Heart Association—have been in the forefront of this national effort. Since 1948, the two have worked in close cooperation to foster and support increased basic and clinical research in the cardiovascular field, to train new research scientists and clinicians, and to participate in a wide variety of community service and public and professional information activities. Through their efforts, Americans have become more aware of what they can do to live healthier lives.

Much has already been accomplished, but much more remains to be done. Recognizing the need for all Americans to take part in the continuing battle against heart disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested the President to issue annually a proclamation designating February as "American Heart Month."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim the month of February 1988 as American Heart Month. I invite all appropriate government officials and the American people to join with me in reaffirming our commitment to finding new or improved ways to prevent, detect, and control cardiovascular diseases.

In witness whereof, I have hereunto set my hand this twenty-first day of January, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

RONALD REAGAN.●

THE 20TH ANNIVERSARY OF SEMCOG

● Mr. LEVIN. Mr. President, this year marks the 20th anniversary of the founding of SEMCOG, the Southeast Michigan Council of Governments. SEMCOG was established because of the realization that the counties, cities, villages, townships, and school districts of southeast Michigan form one regional community.

As the 1966 report calling for a regional approach put it:

Our citizenry is bound together physically, economically, and socially, and is affected and serviced by not just one unit of local government but by many. We realize that our individual and collective destinies rest with the interdependent actions of the family of local governments which comprise our region.

The fact that we have many separate, yet interrelated, local governments creates serious political and organizational questions as to how we may more effectively and efficiently coordinate our activities to provide needed services to all our citizens. Our dilemma is to retain local home rule while combining our total resources for regional challenges beyond our individual capabilities.

During these past 20 years SEMCOG has resolved that dilemma. It has done that by establishing a process for cooperative, comprehensive, and continuing regional planning for the seven-county southeast Michigan region. More than 250 representatives of local government, public interest groups and the private sector work through a technical advisory committee process to refine various regional planning activities. More than 150 representatives of local government then arrive at regional planning policy decisions through an executive committee and a general assembly.

SEMCOG serves as a forum for regular and ongoing discussions of regional problems and issues by various levels and branches of government. It has established a regional review process through which local communities can comment on State and Federal grants and programs. It has developed a long-range transportation plan for the region. It has drawn up a water quality management plan. It has developed a data analysis and forecasting process which makes population, household, and employment forecasts for all 234 units of local government for a 20-year period. It maintains an information services program which responds to more than 6,000 requests for information annually.

It also maintains such direct benefit programs as the RideShare car and vanpool program; the HomeShare Housing Match Program; the economic development Site Location Network; the innovative transit accident and crime analysis project; and the Transportation Systems Management Pro-

gram for low and moderate cost traffic improvement programs.

Mr. President, SEMCOG's 20-year history has been a success story. I salute all those involved with the past 20 years of progress. The people of southeast Michigan have been well-served by their efforts.●

SUPPORT FOR RECLAMATION GROUND WATER MANAGEMENT AND TECHNICAL ASSISTANCE STUDY OF 1987

● Mr. MOYNIHAN. Mr. President, ground water legislation has been one of the prominent issues on the legislative docket for the 99th and 100th Congresses. Legislation has been concentrating on protection of surface and ground waters, and research to support planning and management of our water resources. In the face of a growing population and increasing demand for water, one of the crucial issues pertaining to ground water is assurance that our ground water systems are adequately recharged to sustain future demands on our aquifers.

Statewide in New York, 6 million New Yorkers rely on ground water for their primary source of drinking water. Three and a quarter million people depend solely upon the ground water underlying Nassau, Suffolk, Brooklyn, and Queens.

By the mid-1800's overpumping of the aquifer under Brooklyn had lowered the water table to 35 feet below sea level. Salt water intrusion forced abandonment of the aquifer in favor of ground water supplies from southern Queens and Nassau. This pattern of development and depletion was repeated in Queens, and over the years planners have moved eastward and continue to dig deeper to accommodate the growing demand for the drinking water from our natural underground reservoirs.

WATERSHED LANDS AND THE WATER CYCLE

We need to appreciate just what a complex and delicate cycle upon which we depend. The Magothy aquifer below Long Island, for example, supplies 90-percent of Nassau County's drinking water, because the shallower glacial aquifer has been polluted. The complete ground water cycle from precipitation to infiltration and migration beyond the barrier island takes approximately 800 years from the time precipitation falls on the center of the Long Island. In the Lloyd aquifer, the deepest of the three major aquifers under Long Island, this process takes about 3,000 years.

The reason the water on Long Island remains drinkable so far is that there are still enough undisturbed watershed and recharge areas to allow this ponderous cycle to function. However, development is relentless on Long Island, as it is nationally—the Council on Environmental Quality estimates that by the year 1990 over 75 percent of the U.S. population will live within 50 miles of the coastline.

What is happening to the watershed lands which protect and recharge Long Island's ground water? Development has greatly reduced these valuable areas. As development encroaches, natural vegetation disappears reducing infiltration of precipitation. Pollution and increased drawdown of the water table will continue to increase unless our water resources are managed properly.

Loss of recharge areas in our watershed tells the story:

The Hempstead Plains—once 45,000 acres, now 62 acres.

The Oak Brush Plains—once 50,000, now 3,000 acres.

The Pine Barrens—once 200,000 acres, now 112,000 acres.

The Pine Barrens is a particularly crucial recharge area for Long Island aquifer system. It is estimated that between 3.5 and 5.2 trillion gallons of water are stored in the saturated layers beneath the Pine Barrens. Fortunately, about 175,000 million gallons of water are recharged through the 112,000 acres of Pine Barrens each day. Without the benefit of recharge the total volume of ground water could be consumed in less than a month at the current rate of ground water consumption in this area. The importance of maintaining these lands as a principal source of future drinking water is self-evident.

CONGRESSIONAL ACTION ON GROUND WATER

The Committee on the Environment and Public Works has sponsored important environmental legislation in the 99th and 100th Congresses which directly affect ground water. As we all know, quality of ground water ties directly to quantity—if we pollute our ground water aquifer systems, we endanger supplies of drinking water.

On the first day of the 100th Congress I introduced S. 20 which is the Ground Water Protection Act of 1987. S. 20 is cosponsored by Senators BURDICK, MITCHELL, BAUCUS, and LAUTENBERG. S. 20 recognizes State primacy in ground water regulation, control, and management. This act directs EPA to establish criteria for 100 contaminants and to provide States with documents specifying the physical, chemical, biological, and radiological properties of ground water. The bill directs EPA's Administrator to make use of research developed under other environmental statutes and to cooperate with other agencies that hold toxicological data. S. 20 authorizes a total of $75 million divided equally over 3 years to support a Federal-State 75 to 25 cost-sharing program for ground water assessment programs.

Later in the session, S. 1105 was introduced by Senators BURDICK, DURENBERGER, MITCHELL, BAUCUS, CHAFEE, STAFFORD, BREAUX, GRAHAM, and myself as a ground water research bill. S. 1105 is similar to H.R. 791 in many regards, such as strengthening ground water research programs in the USGS, EPA, and the Department of Agriculture. Together, these bills strive to increase our understanding of ground water—our most critical resource, and to balance Federal and State/local responsibilities for insuring the necessary quality and quantity of our drinking water supplies in the future.

THE SOLE SOURCE AQUIFER BILL AND SAFE DRINKING WATER ACT

In 1982, I sponsored the Sole Source Aquifer Protection Act, which became a part of the Safe Drinking Water Act amendments passed by the 99th Congress. The act authorized $78 million over fiscal years 1987-91 for States to monitor and protect underground sources of drinking water. EPA has designated Long Island as a sole source aquifer, so it will be eligible for these matching funds. Unfortunately, the administration has not supported funding for the sole source program nor the wellhead protection program.

The Clean Water Act was enacted in 1972 to clean up our Nation's rivers and progress has been made toward this goal. However, much still needs to be done to ensure the quality of our rivers for our children and future generations. By cleaning these rivers—recharge areas fed by surface waters will be assured clean, unpolluted recharge.

Superfund amendments which I helped to draft as a conferee, passed in the 99th Congress. This bill provide $9 billion for cleaning up the worst hazardous waste sites in the country. An important new addition to Superfund is a $500 million cleanup fund for leaking underground petroleum storage tanks. I will continue to support full funding for Superfund.

Water in our rivers is already diverted to satisfy our cities' thirst for water. The city of Los Angeles receives water from northern California and other States—as far away as the Gunnison River, CO. New York City's water, most of which comes from the Catskill and Delaware watersheds to the west is already fully committed. There are no nearby sources for ground water that can be newly tapped to supply the demand for additional water. Bearing this in mind, it is essential to maintain the recharge areas, such as the critical Pine Barrens in New Jersey, to ensure that we do not deplete our national supplies of drinking water.

I therefore am pleased to cosponsor this bill today with Senator BRADLEY. The Reclamation Ground Water Management and Technical Assistance Study Act of 1987 directs the Bureau of Reclamation to study the national capabilities for ground water recharge and the adequacy of artificial recharge technologies for varying hydrogeologic

conditions. Specifically, the Bureau of Reclamation is directed to assess the impact of existing water projects on the quality of ground water, including quality and quantity. This is important because of the large number of water projects throughout the Nation and associated diversions from the water's natural channels and reservoir areas.●

IN RECOGNITION OF THE 40TH BIRTHDAY OF EPWORTH VILLAGE RETIREMENT COMMUNITY

● Mr. CHILES. Mr. President, I rise today to recognize the 40th birthday of the Epworth Village, a special retirement community which has been serving Florida's elderly since 1948.

Over the years I have heard from many seniors who have told me what they so desperately want and need for a happy, secure retirement. They tell me above all that they want to maintain their independence and have the freedom to choose their own activities. They also speak of having the security of knowing that essential services such as congregate meals and transportation are available when needed. All of these things are necessary in maintaining a healthy and active life in later years.

The people at Epworth Village have provided just such an atmosphere for close to half a century. They have also provided seniors with something else; that feeling of community which makes life so special.

So, today I wish Epworth Village a happy 40th birthday, and I thank its people for their wonderful past and future service to older Floridians.●

ESTONIAN INDEPENDENCE—SENATOR METZENBAUM

● Mr. METZENBAUM. Mr. President, today, February 24, 1988, marks the 70th anniversary of Estonia's Declaration of Independence. The three neighboring Baltic States, Estonia, Latvia and Lithuania, were all absorbed by the Soviet Union in 1939 through a Nazi-Soviet pact. As a result, these brave people have been denied their right to self-determination for almost 50 years.

Today's anniversary of Estonian independence reminds us of the continuing struggle of native Estonians for their cultural, political and economic freedoms. Decades have passed since the ruthless Soviet takeover, yet those voices for freedom have not died down. In fact, the calls for freedom have grown stronger and more insistent. This past year, the world has witnessed the most vocal and widespread Baltic nationalist demonstrations in recent memory.

There is no doubt that Baltic nationalism is alive and well, and I vigorously applaud the persistent struggle of Estonians and other Baltic people who hunger for liberty and autonomy.

Their rising nationalist tone has resulted in what is now the quintessential Soviet reaction—the policy of fierce crackdowns. This policy has taken the shape of threats, detainments, labor camp sentences, and deportations. Nonetheless, the native population in Estonia continues to strive for freedom from Soviet rule and the 150,000 Red army soldiers stationed on Estonian soil.

On February 2, 1988, Senator RIEGLE introduced Senate Joint Resolution 249, a resolution designating June 14, 1988, as "Baltic Freedom Day." I am proud to join my 53 Senate colleagues in cosponsoring this measure. It is through such legislation that we can best express our solidarity with the Estonians.

I invite my colleagues to support the right of Baltic self-determination by commemorating Estonian Independence Day and sending a strong signal to the Kremlin that we do not condone the illegal occupation of sovereign states.●

ESTONIAN INDEPENDENCE DAY

● Mr. LAUTENBERG. Mr. President, I rise to join the people of Estonia in commemorating the 70th anniversary of the declaration of the independence of the Republic of Estonia.

On February 24, 1918, the independence of Estonia was formally declared. During the period of independence, the sovereign nation thrived. but the signing of the Molotov-Ribbentrop Pact in 1939 and the Soviet's occupation of the Baltic States ended the independence of the republic.

In Estonia, citizens have made plans to honor independence day with public ceremonies. They know that they run the risk of Government harassment and even arrest. But they will not be deterred. Estonian hopes for freedom and human rights are stronger than the Soviet Government's desire to quell their activity.

National sentiment is strong in the hearts of the people of Estonia. They and their relatives in the West long for an independent nation once again.

The Senate has urged General Secretary Gorbachev to permit desiring Estonians to participate in independence day ceremonies. Earlier this month Senators RIEGLE, DURENBERGER, and I circulated a letter in the Senate, signed by 29 of our colleagues, encouraging General Secretary Gorbachev to allow the ceremonies to commence.

Unfortunately, the individuals who participated in independence ceremonies in Lithuania just 2 weeks ago were harassed and intimidated by authorities. Some were even placed under house arrest.

But today General Secretary Gorbachev has another opportunity to demonstrate that his glasnost policy is intended for the people of the Baltic States. I hope the Soviets will permit ceremonies to proceed in Estonia today without incident.

Mr. President, I urge my colleagues to join in commemorating the 70th anniversary of Estonian independence.●

FRAGILE FOUNDATIONS: A REPORT ON AMERICA'S PUBLIC WORKS ISSUED BY THE NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

● Mr. DOMENICI. Mr. President, the National Council on Public Works Improvement issued its report to the Nation today. It is entitled "Fragile Foundations: A Report on America's Public Works."

This is an important event, and I commend Chairman Joseph Giglio and his fellow Council members for their hard work to produce this valued report.

Together with other recent reports, including that of the Senate Budget Committee's Private Sector Advisory Panel on Infrastructure Financing, I am hopeful Congress can move forward this year to address the issue of public works investments.

I was particulary pleased by the Council's praise for the state of our Nation's water resources. The Council notes that the cost-sharing improvements established by the 1986 act should improve project selection and reduce overall project costs.

Mr. President, I ask that a summary of the findings of the report be printed at this point in the RECORD.

The summary follows:

A STRATEGY FOR IMPROVING AMERICA'S PUBLIC WORKS

No single approach is adequate to ensure the future viability of America's infrastructure. A broad range of measures is necessary to make a meaningful difference by the turn of the century. Specifically, these should include:

A national commitment, shared by all levels of government and the private sector, to increase capital spending by as much as 100 percent above current levels;

Clarification of the respective roles of the federal, state, and local governments in infrastructure construction and management to focus responsibility and increase accountability;

More flexible administration of federal and state mandates to allow cost-effective methods of compliance;

Accelerated spending of the federal highway, transit, aviation, and waterways trust funds;

Financing of a larger share of the cost of public works by those who benefit from services;

Removal of unwarranted limits on the ability of state and local governments to help themselves through tax-exempt financing;

Strong incentives for maintenance of capital assets and the use of low-capital techniques such as demand management, coordinated land-use planning, and waste reduction and recycling;

Additional support for research and development to accelerate technological innovation and for training of public works professionals; and

A rational capital budgeting process at all levels of government.

None of these steps will be easy or unopposed. But the increasing cost of delay is certain. The Council urges the President, the Congress, and the nation's state and local leaders to act on this agenda immediately.●

FILING OF THE RULES OF THE SPECIAL COMMITTEE ON AGING 100TH CONGRESS

● Mr. MELCHER, Mr. President, in compliance with section 133(b) of Legislative Reorganization Act of 1946, as amended, the Special Committee on Aging is publishing the Committee's rules, which I submit for printing in the RECORD.

The rules are as follows:

I. CONVENING OF MEETING AND HEARINGS

1. Meetings

The Committee shall meet to conduct Committee business at the call of the chairman.

2. Special meetings

The members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

3. Notice and agenda

(a) Hearings.—The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) Meetings.—The Chairman shall give the members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened notice.—A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. Presiding officer

The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the ranking majority member present shall preside. Any member of the Committee may preside over the conduct of a hearing.

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure

All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meetings or hearing may be closed by a vote in open session of a majority of the members of the Committee present.

2. Witness request

Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed session subject

A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule II (5)(b).

4. Confidential matter

No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part by way of summary, unless specifically authorized by the Chairman and ranking minority member.

5. Broadcasting

(a) Control.—Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) Request.—A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

III. QUORUMS AND VOTING

1. Reporting

A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. Committee business

A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority member is present. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. Polling

(a) Subjects.—The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) Procedure.—The Chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls; if the Chairman determines that the polled matter is one of the areas enumerated in rule II.3, the record of the poll shall be confidential. Any member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. INVESTIGATIONS

1. Authorization for investigations

All investigations shall be conducted upon a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the ranking Minority member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the ranking Minority member agree that there exists temporary cause for more limited knowledge.

2. Subpoenas

Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other member of the Committee designated by him. Prior to the issuance of each subpoena, the ranking minority member, and any other member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. Investigative reports

All reports containing findings of recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the members of the Committee.

V. HEARINGS

1. Notice

Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours' notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath

All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3. Statement

Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and ranking Minority member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

4. Counsel

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or deposition or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. Transcript

An accurate electronic or stenographic record shall be kept of the testimony of all

witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact; the Chairman or a staff officer designated by him shall rule of such request.

6. Impugned persons

Any person who believes that evidence presented, or comment made by a member of staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may;

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides, the requested questions, or paraphrased versions or portions or them, shall be put to the other witnesses by a member or by staff.

7. Minority witnesses

Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. Conduct of witnesses, counsel and members of the audience

If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

VI. DEPOSITIONS AND COMMISSION

1. Notice

Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. Counsel

Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. Procedure

Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a member of the Committee. If the member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a member of the Committee.

4. Filing

The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. Commissions

The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or accompanied by instructions from the Committee regulating their use.

VII. SUBCOMMITTEES

1. Establishment

The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex-officio members of all subcommittees.

2. Jurisdiction

Within its jurisdiction, as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. Rules

A subcommittee shall be governed by the Committee rules, except that its quourm for all business shall be one-third of the subcommittee membership, and for hearings shall be one member.

VIII. REPORTS

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

IX. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceeded by at least 3 days notice of the amendments or revisions proposed.●

SEVENTIETH ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE

● Mr. LEVIN. Mr. President, today marks the 70th anniversary of the Republic of Estonia's Proclamation of Independence. On February 24, 1918, the people of Estonia established an independent government. I call upon Congress to join with Estonian-Americans in Michigan and across the country in remembering this significant event in Estonian history. Today, we remember a brief period of genuine freedom for the Estonian people.

Their freedom came to an abrupt end 48 years ago when the Soviet Union occupied Estonia, as well as Lithuania and Latvia. The Soviet annexation not only ended Estonian independence, but also led to massive death and deportation. A total of 350,000 people were lost between 1939 and 1949—a third of Estonia's population.

Despite the suffering and loss of political independence, Estonian national pride remains strong and free Estonia lives in the hearts of Estonians.

On August 23, 1987, a nationalist demonstration took place in Tallinn, the capital of Estonia. This brave protest, the first publicly planned demonstration of its kind, makes clear that the passing of almost half a century has not muted Estonian calls for independence. A new generation of Estonians, born and raised under Soviet rule, joints in the fight for Estonian freedom.

As recently as last month, 14 citizens of Estonia signed a handwritten document calling for the creation of the first independent party in the Soviet Union, the Independence Party of Estonia. This act, the latest in a series of bold moves by the Estonian people to promote independence, has brought a resurgence of pride in the Estonian community, and serves notice to the world that their spirit cannot be broken.

Unfortunately, the Soviet response to this action was all too familiar. Several of the signers have been detained by the police, others have been rein-

ducted into the military, and all were warned that they face criminal prosecution if they continue their political activities. We have heard a great deal about the new openness of the Soviet Union—glasnost—but this clampdown on Estonian political rights raises questions about this much touted policy.

There will be no official observance of this anniversary in Estonia today. But the voice of Estonia will be heard. I join with Estonian-Americans to celebrate the anniversary of Estonian independence: We remember the courageous resistance of Estonians in the past, we draw hope from the activism of the present, and we look toward a brighter future, when all people will finally be free.●

NOMINATIONS TO THE FEDERAL COURTS

● Mr. METZENBAUM. Mr. President, at its business meeting of February 23, the Judiciary Committee ordered reported to the full Senate four nomination to the Federal courts. These four nominees were examined at a committee hearing held on February 17, 1988, at which I presided. For the benefit of Senators who will soon vote on these nominations, I offer the following brief summaries of the nominees' background and qualifications, and of the testimony taken at the hearing on their nominations.

First. Paul Michel has been nominated to be U.S. circuit judge for the Federal circuit. The nominee is counsel to Senator SPECTER, whom he served as administrative assistant from 1981-87. From 1976-81, Mr. Michel served in the Justice Deparment, first as Deputy Chief of the Criminal Division's Public Integrity Section, and later as Associate Deputy Attorney General. Previously, the nominee had served as counsel to the Senate Select Committe on Intelligence, as an Assistant and then deputy district attorney in Philadelphia. The nominee is a 47-year-old graduate of Williams College and the University of Virginia Law School. He is well regarded by most of his professional colleagues and past supervisors. A majority of the American Bar Association Standing Committee on the Federal Judiciary rated him qualified for the post to which he has been nominated, while a minority considered him well qualified. His nomination has also been endorsed by three bar associations whose members practice before the court to which he has been nominated: the Federal Circuit Bar Association, the International Trade Commission Trial Lawyers Association, and the Customs and International Trade Bar Association.

At the hearing on February 17, the nominee was introduced by Senator SPECTER. I then questioned him about his inexperience in substantive areas of law that come before the Court of Appeals for the Federal Circuit, and his approach to cases in which the United States is a party. Senator THURMOND questioned the nominee about judicial activism. His responses were satisfactory.

Second. Malcolm Howard has been nominated to the U.S. District Court for the Eastern District of North Carolina. Mr. Howard has been in private practice since 1974, specializing primarily in bankruptcy law. Before that, he served as Assistant White House Counsel, Assistant U.S. Attorney, and as a career officer in the Army. Mr. Howard is 48 years old, and is a graduate of the U.S. Military Academy at West Point and Wake Forest University School of Law. The ABA committee rated Mr. Howard as qualified. He was also rated favorably in a poll conducted by the North Carolina Bar Association.

At the hearing on February 17, Mr. Howard was introduced by Senators SANFORD and HELMS. He was then examined about his work assisting in the defense of President Nixon in impeachment proceedings before the House Judiciary Committee, the nature of his private practice, his experience with pro bono work, and his views of judicial activism and constitutional interpretation.

Third. Rudy Lozano has been nominated to the U.S. District Court for the Northern District of Indiana. Mr. Lozano has been in private practice since he graduated from law school in 1966, focusing almost entirely on personal injury defense work. He is 45 years old, and he received both his undergraduate and his legal education at the University of Indiana as well as doing post-graduate work at the John Marshall Law School. Mr. Lozano appears to be well regarded by his professional colleagues, and was rated well qualified by the ABA committee.

At the hearing on February 17, Mr. Lozano was introduced by Senators LUGAR and QUAYLE. He was examined about the nature of his litigation practice, his experience with Federal statutory law, his involvement with the Hispanic Bar Association, his view of the judge's role in settlement, and his philosophy of constitutional interpretation.

I am pleased that the administration has seen fit to nominate a well-qualified Hispanic lawyer to a Federal judicial post. This administration's overall record on appointment of minorities and women to the Federal bench remains quite poor: 91 percent of this administration's nominees have been male, and barely 6 percent have been members of minority groups. This is an issue of concern to many members of the Judiciary Committee, and one which we will continue to monitor closely.

Fourth. Stephen Reasoner has been nominated to the U.S. District Court for the Eastern District of Arkansas. Mr. Reasoner has been in private practice since he graduated from law school in 1969, specializing for most of that time in trial work. He is 43 years old and received both his undergraduate and his legal education at the University of Arkansas. Mr. Reasoner appears to be well regarded by his professional colleagues, and was rated well qualified by the ABA committee.

At the hearing on February 17, Mr. Reasoner was introduced by Senators BUMPERS and PRYOR. He was examined about the membership policies of two fraternal organizations to which he belonged, his thinking on proper judicial temperament, and his views on judicial activism. He also answered written questions about his organizational memberships, a pro bono case described in his response to the committee's questionnaire as a friendly lawsuit, and his relative lack of experience with criminal law. In his answers to the written questions, Mr. Reasoner stated his decision to resign from the two fraternal organizations in order to remove his membership in the organizations as an issue in his confirmation.

Mr. President, the Judiciary Committee has moved expeditiously to review these nominations. Let me point out for the record that the vacancies which these four nominees would fill existed for an average of nearly 15½ months before the President made a nomination to fill them. Once the Senate received these nominations, we acted within an average of 3 months—five times as fast—to investigate them, hold hearings, and report them to the full Senate. These facts make clear once again that the great bulk of the responsibility for unfilled judicial vacancies—and there are at least 23 such vacancies today—lies with the executive branch of government, not with the Senate. In the case of these 4 nominees, as with the other 56 judicial nominations the Judiciary Committee has reported in this Congress, the committee has, in my view, fairly, thoroughly, and expeditiously carried out its role in the constitutional process of advice and consent.●

SEVENTIETH ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE

● Mr. BOSCHWITZ. Mr. President, I rise today to recognize the 70th anniversary of Estonia's Declaration of Independence. For over two decades, Estonia enjoyed its freedom as an independent nation. However, like its two neighboring Baltic States, Estonia fell victim to the insidious deal worked out between Hitler and Stalin. What followed was the familiar Soviet pattern

of subjugation and consolidation of its power over other nations.

The United States has never recognized Estonia's annexation into the U.S.S.R. Despite its occupation by 150,000 Soviet troops and almost 50 years of Soviet control, Estonians still dream of an independent homeland. On August 23, of last year, Estonians peacefully demonstrated in their city of Tallin to make this point.

Americans of all political persuasion stand behind the people of Estonia. I truly salute these valiant people who have never given up hope, who have maintained their own sense of nationalism from generation to generation, and who seek a voice in shaping their own destiny and that of their country.●

COL. JOHN F. PHILLIPS, USAF

● Mr. BENTSEN. Mr. President, I want to take this opportunity to commend Col. John F. Phillips, currently the vice commander of the Logistics Management Systems Center at Wright Patterson Air Force Base, OH, who has recently been selected for the rank of brigadier general. A native Texan, Colonel Phillips graduated from Jarvis Christian College in Hawkins, TX, with honors and is believed to be the first graduate of that school to be selected for general officer. He will also be 1 of only 20 total black general officers in Air Force history and 1 of 4 now on active duty. Colonel Phillips graduated from the University of Southern California's Institute of Aerospace Safety Engineering, the Air Force Institute of Technology, and is pursuing a doctoral degree through Texas A&M University.

Colonel Phillips had more than 300 combat flying hours in missions over Vietnam and was stationed in Iran at the time of the fall of the Shah. He remained in Iran until he was expelled from that country in February 1979. He has served his country with assignments in five States, the District of Columbia, and two foreign countries.

I wish Colonel Phillips the best for the remainder of his Air Force career and in his future endeavors.●

DAN YARANO—SENATE HEALTH PROMOTION

● Mr. BINGAMAN. Mr. President, recently Dan Yarano resigned his position as Director of the Senate health promotion campaign. During his tenure, Dan's diligent efforts to improve the health of Senate employees was a notable success. I worked closely with Dan, and I would like to take this opportunity to recognize and applaud his good work.

One of Dan's successes was the "Working Well Campaign," which focused on the over-all fitness of the participating Senate employees. Dan has showed us the many advantages of achieving over-all fitness within an office setting to both the employer and the employee. For the employer a fit work force translates into heightened productivity, lower health care costs, less absenteeism, and improved morale. For the employee, the benefits are more obvious—better health, and less risk of disease.

The Senate Service Department had a very high participation rate in the program, strongly supporting seminars on fitness, diet and hypertension, nutrition, and back care. The majority of employees are now exercising regularly, and many are enjoying healthier lifestyles, thus reducing sick leave and health care costs.

Dan also organized lifestyle improvement classes in yoga, stress, smoking cessation, and weight loss programs. They have helped hundreds of Senate employees reach their desired levels of fitness. He also organized well-attended self-help exercise clubs.

We will miss Dan Yarano, and his valuable contribution to the better health of us all. I wish him a fit and successful future.●

TRIBUTE TO JOHN M. RIVERS, BUSINESSMAN IN CHARLESTON, SC

● Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Mr. John M. Rivers who died on Sunday, January 24, 1988 at the age of 85.

Mr. Rivers was a highly respected man not only in the Charleston community, but throughout the entire State. His integrity, intellect, and sound judgment led him to become one of the most capable and innovative businessmen in South Carolina. Mr. Rivers was owner and chairman of the board of WCSC Inc., a Charleston television station, and was active throughout his lifetime in a number of organizations around the State.

Mr. Rivers attended the College of Charleston and later transferred to Wharton Business School, where he received his bachelor's degree in economics in 1924. He began his business career as a runner with the Bank of Charleston and was named assistant vice president before leaving in 1936 to join the Charleston office of McAlister, Smith and Pate, a Greenville securities firm where he served as vice president for a year. Mr. Rivers then went on to become president and manager of WCSC, Charleston's first broadcasting medium, and in 1944 he purchased the station. Some of Mr. Rivers' accomplishments and titles over his lifetime include: president of the South Carolina Broadcasters Association, president of the Charleston and South Carolina Chambers of Commerce, 1961 South Carolina Businessman of the Year, vice chairman of the South Carolina Educational Television Commission, and trustee of the historic Charleston Foundation as well as the Foundation of Independent Colleges.

Mr. John Rivers' involvement in the community and State show the depth of his concern for others and the extent of his fine character. His life will surely serve as an example for future generations of South Carolinians. We are saddened by the death of Mr. John M. Rivers, and I join with my colleagues in extending deepest sympathy to his lovely wife Martha and his son John, Jr.

Mr. President, I would like to ask that an obituary from the Charleston News and Courier and an editorial from the Charleston Evening Post be inserted in the RECORD following my remarks.

The material follows:

[From the Charleston News Courier, Jan. 25, 1988]

BUSINESSMAN JOHN M. RIVERS DIES

John Minott Rivers of 47 Meeting St., former owner and chairman of the board of WCSC Inc., died Sunday at his residence.

The funeral will be at 11 a.m. Tuesday in St. Philip's Episcopal Church. Burial, directed by Stuhr's Downtown Chapel, will be private.

Mr. Rivers was born July 22, 1903, in Charleston, a son of Moultrie Rutledge Rivers and Eliza Ingram Buist Rivers. He was educated in the public and private schools of Charleston, attending Miss Briggs' School, Crafts School and the High School of Charleston. He attended the College of Charleston for two years and was the business manager of the college's magazine. He transferrred to Wharton Business School at the University of Pennsylvania and received his bachelor's degree in economics in 1924.

He began his business career in 1924 as a runner with the Bank of Charleston, the forerunner of the South Carolina National Bank. He transferred to its Greenville branch and became its manager. He was an assistant vice president of the bank when he left in 1936 to join the Charleston office of McAlister, Smith & Pate, a Greenville securities firm, as vice president.

In 1937, W. Frank Hipp, owner of WCSC-AM in Charleston, offered Mr. Rivers a job in the radio business. Hipp designated Mr. Rivers president of the South Carolina Broadcasting Co., the licenser of WCSC. On Jan. 1, 1938, Mr. Rivers became president and manager of WCSC Radio, Charleston's first broadcasting medium. He purchased the station in 1944.

In 1948 he began operation of the FM radio station and then brought WCSC-TV, Channel 5, on the air in June 1953. It was the first VHF television station in South Carolina. He became chairman of the board of WCSC Inc. in 1973. WCSC Inc. was sold to Crump Communications Inc. of Houston, Texas, in 1987.

While president of the South Carolina Broadcasters Association in 1952, he was instrumental in gaining passage of a libel and slander bill in the S.C. General Assembly.

He was president of the Charleston Chamber of Commerce at age 33, the youngest person ever to hold the position. He was also a past president of the S.C. Chamber of

Commerce and in 1961, the organization elected him Businessman of the Year. In 1974 he became the second person inducted into the S.C. Broadcasters Association Hall of Fame. He was awarded the Silver Medal of the Advertising Federation of Charleston in 1977. He served on the South Carolina Educational Television Commission and was elected vice chairman in 1980.

Mr. Rivers served on the Coker College Board of Trustees and served a term on the Winthrop Board of Visitors. He was a member of the Board of Trustees of Ashley Hall School and the school's library is named after him. He served in 1971 as chairman of the Charleston Symphony Orchestra Fund Drive. He was also former chairman of the Charleston Development Board and past chairman of CBS Radio Affiliates Board. He was director emeritus of the South Carolina National Bank and a director of the South Carolina National Corp.

He was a trustee of the Historic Charleston Foundation, Church Street Foundation and the South Carolina Foundation of Independent Colleges.

[From the Charleston Evening Post, Jan. 26, 1988]

JOHN M. RIVERS

John M. Rivers descended from an old Lowcountry family. His paternal grandfather was a cotton planter and a Confederate artillery officer. A graduate of the University of Pennsylvania's Wharton School of Finance, Mr. Rivers gained his early training and experience in investment and banking. The facility with which he made the transition to the broadcast industry and the successes he enjoyed there were marks of the man.

Broadcasting, Mr. Rivers later would note, involves entertainment but "it's still a business." His confidence in business matters prompted him to accept a 1937 job offer as manager of WCSC, Charleston's first radio station. Seven years later he bought the station. Nine years after that he was pioneering in television, bringing on the air WCSC-TV, the state's first VHF station. He rose to chairman of the board of the WCSC corporation, in part by virtue of his business acumen but in no less part by virtue of his unquestioned integrity. He managed with a firm hand, yet he was personable, straightforward, and sensitive to the feelings and needs of others.

Mr. Rivers' affection for his native Charleston was expressed in numerous ways. He gave much of his time and talent to civic endeavors—charitable causes as well as those devoted to promoting the Lowcountry's economic and cultural growth. Friends throughout the state were saddened by his unexpected death Sunday at 84. They will remember him not only as a highly successful businessman but as an exceptionally good citizen.●

IMPACT OF CHINA'S ECONOMIC REFORM ON ITS PEOPLE IMPRESSES FLORIDA LEADERS

● Mr. CHILES. Mr. President, the rather dramatic changes taking place in the People's Republic of China are being watched closely and carefully analyzed in an effort to determine what the ongoing effects will be on the rest of us around the world.

Last year, a group of Florida business and financial leaders accompanied State Treasurer William Gunter on a mission to China to examine those changes, in particular economic reform, and their implications for the people of China and for greater international cooperation in trade and technology.

The impressions and conclusions of the Floridians were made available to me, and in the interest of helping build better understanding about the reforms taking place in China, I want to share that information.

Mr. President, I ask that the report on this mission be included in the RECORD at this point.

The report follows:

REPORT ON PEOPLE-TO-PEOPLE MISSION TO CHINA, JULY 6-18, 1987, BY FLORIDA STATE TREASURER AND INSURANCE COMMISSIONER BILL GUNTER

This past summer, I was privileged to lead a delegation of Florida business and financial leaders on a five-city tour of the People's Republic of China to visit with business and financial leaders there and to see how China was working with investors from other nations to modernize its economy.

Each member of the group paid his or her own way, but sought contacts and information they might share with others seeking mutual benefit in U.S.-China trade. Among the members of our group were a number of prominent Florida bankers, including Robert E. White, of Miami, President of the Florida Bankers Association.

The trip was arranged under the aegis of People-to-People International, a private nonprofit organization created in the 1950's by President Eisenhower, dedicated to the pursuit of world peace through better personal understanding between citizens.

We were especially interested in learning about China's new economic reform campaign and meeting officials of the People's Bank of China which underwrites Chinese participation in international joint economic ventures. In preparing for visits with our Chinese counterparts, we were immeasurably aided by Commercial Officer Catherine Houghton of the U.S. Embassy in Beijing who briefed us on the economic opportunities now open to foreigners in China.

ECONOMIC GROWTH AND POLITICS

As our bus moved through the streets of Beijing, passing the many highrises cropping up throughout the suburbs, we noticed marked differences between what we were seeing today and what we saw in the evening news fifteen years earlier when Richard Nixon first went to China.

For one thing, the streets, then dominated by bicycles, carts and pedestrians, were now nearly choked with trucks, buses and cars. On some busy streets, bicycles are no longer allowed. Another change was in the style of dress. China's booming textile and clothes manufacturing industries certainly have an internal market. Clothes were colorful and fashionable. And it was obvious that little trouble or expense was spared in dressing up the little children—especially since one-child-per-couple is now the practical rule among all but China's minority nationalities.

Although our group felt free to go where we liked, together or individually, with or without a guide, and although we felt the Chinese we met spoke with us freely, there was abundant evidence that the Communist Party has not let go of the reins of political power. Demonstrations for even more accelerated economic reform earlier this year ended with the resignation of Communist Party Secretary Hu Yaobang, protege of Deng Xiaoping, and a renewed campaign against the dangers of bourgeoise liberalism.

THE BANK OF CHINA

A meeting was set up between our group and Lei Zuhua, Vice President and one of 15 managing directors of the Bank of China, at the bank's modern headquarters in Beijing. Mr. Lei outlined for our group the development of China's economic reform movement and the role that the Bank of China is playing in its progress.

The Bank of China is a specialized foreign exchange bank under the umbrella of China's central bank, the People's Bank of China, one of 45 "ministerial agencies" of the Chinese government. Other specialized banks are the Agricultural Bank of China, Industrial and Commercial Bank of China, Construction Bank of China, Investment Bank of China, and Communications Bank of China. Each bank provides loans and financial services in its area of specialization. Also under that umbrella is the Insurance Company of China. The total staff of the whole system numbers about 1.1 million.

The Bank of China operates chiefly in China's coastal areas, designated "Special Economic Zones" and in foreign nations. There are 369 offices within China, with a staff of about 21,000, and 347 branches overseas with a total staff of 11,000 in Macao, Hongkong, Singapore, Sydney, Luxembourg, Paris, London, New York, and Tokyo. Bank officials expressed a hope that operations might also soon be extended to Los Angeles. The bank has correspondent relationships with about 3600 financial institutions in 153 nations. As we noted on our return trip through Hong Kong, the Bank of China building there is the tallest in the colony.

Up until the economic reforms of late 1978, the bank dealt mainly in the settlement of international payments. Today, its responsiblities and freedom of action have been greatly expanded. The bank now also engages in loans, international leasing, floats bonds on the international capital market and issues stocks and corporate bonds on behalf of domestic enterprises. The Bank of China is authorized to sign agreements with foreign governments and central banks. In order to enhance the ability of the branches themselves to develop business, more decision-making power is also being delegated to the provincial and municipal levels.

Increasingly, the Bank of China is involved in managing foreign exchange funds of the state in addition to its own helping to raise foreign funds an developing joint ventures. Our publication we were provided announced that the Bank of China was issuing, on a trial basis, two charge cards for permanent foreign representatives; the "Great Wall Debit Card" in foreign currency, and the "Great Wall Credit Card" in Chinese currency.

At the end of 1978 when the economic reform campaign began, The Bank of China's assets were around 38.7 billion renminbi (RMB), or about US$10.5 billion at the exchange rate of RMB 3.7 per U.S. dollar that was current at the time of our trip. The Bank of China 1986 Annual Report showed assets of RMB 345 billion, or more than US$93 billion—around nine times as much in just eight years. Profits were shown at about RMB 3 billion for 1986. The

Bank of China is now the 41st or 42nd of the 500 biggest banks in the world.

Two-way trade between the U.S. and China has tripled since the economic reforms began. The U.S. is China's number three trading partner after Hong Kong and Japan, and it is second only to Hong Kong in investments.

The Bank of China provides loans to companies and joint ventures dealing in foreign trade (around RMB 8 billion a year). It also organizes syndicates for big joint ventures such as the mining project undertaken with Occidental Petroleum in Guangdong (Canton) Province. Nuclear Power Stations have likewise been built as joint ventures.

Although operating costs are high here, the Bank of China would like to strengthen its presence in the United States. It now has a branch in New York and is planning a branch in Los Angeles. Mr. Lei felt prospects for U.S.-China trade are bright. A number of U.S. syndicates are also providing capital for U.S.-China joint ventures, and China is looking for low-cost loans in the U.S. capital market.

Since China's Joint Venture Law was adopted by the Fifth Congress in July 1979, the Chinese government has set up a number of "Special Economic Zones" where Chinese and overseas partners working in joint ventures have considerable autonomy in the way they do business. Joint ventures are given a greater latitude in decisionmaking and a preferential tax rate. They are also afforded the protection of government-to-government agreements on investment insurance.

The corporate income tax rate paid by state-owned businesses in China is 55%. Joint ventures outside the Special Economic Zones pay 30% with a local income tax of 3%, though both the national and local governments may negotiate the rate somewhat if they consider the development especially attractive.

But within the Special Economic Zones, the income tax rate is only 15%—even lower than the 18.5% rate offered in Hongkong. Furthermore, certain technology-intensive industries critical to China's development are exempted from the income tax for the first two years, and pay only half of the preferential rate for the next three years. Imports necessary to such developmental industry are also tax free.

The Chinese point to an increasingly stable climate for investment since the economic reforms began in 1978. More recently, they have made protection of the rights of foreign investors a part of their national constitution. One group was told again and again throughout our trip that work on the tax and legal systems to make things easier for western business is ongoing.

Since the supplementary economic reforms made in October of 1986, joint ventures can independently hire and fire workers and set wages on a competitive basis. However, that portion of wages which covers social benefits such as health care and housing subsidies must be turned over to the Chinese government for administration.

There are now several thousands of joint ventures in areas like transportation, energy, agriculture, manufacturing and tourism. These joint ventures are chosen on the basis of how well they meet China's planning needs. For instance, the Chinese have decided that Beijing can only absorb around two million tourists a year, and that it's impractical to build any new airports in Beijing. Therefore tourism joint ventures will be encouraged more in other areas.

Some of our group were concerned about the extent to which U.S. companies can carry on normal banking relations in China. Mr. Lei answered that currently there are 34 foreign banks in the Special Economic Zones. Right now, these banks are just doing foreign exchange business. The Chinese government wants to examine its experiences in the Special Economic Zones before further changes are made.

Mr. Lei maintained that most joint venture companies have made profits. He said that China is committed to stimulating competition through the Special Economic Zones, including competition with Chinese businesses. Joint venture businesses are primarily encouraged to sell their products on the international market, thereby gaining foreign exchange for both the foreign and Chinese partners.

Still, some needed technologically advanced goods are allowed to be sold on the domestic Chinese market as well. For instance, if the product being produced is one that would otherwise have to be imported, joint venture producers would have preferential access to the domestic market.

Chinese priorities for development also govern the preferences they give to joint venture applications: 1. energy, building materials; chemicals and metals industries; 2. machine and instrument manufacturing; 3. electronics and communications manufacturing; 4. textiles, food processing, medicine, medical apparatus; 5. agriculture, animal husbandry, aquaculture; and 6. tourism and service trades.

In seeking imports, China still prefers business and industrial goods to consumer goods. Key Chinese needs are for technology and knowhow. As Florida follows its commitment to growth in these areas, there will be increasing opportunities for exchange.

The Chinese were willing to admit that joint venture relationships are not likely to produce quick returns. Monetary policies are extremely conservative and foreign currency reserves are tightly protected. Chinese currency—the renminbi—is not an international currency and can be traded only through official channels.

Difficulty in repatriating profits seems to be the most frequent complaint of western business partners. When goods are sold in China for renminbi earnings cannot easily be exchanged for convertible currencies. Western sellers either have to negotiate to be paid in other currencies, or—as some companies have done—take their profits out of China in the form of export goods.

For some western joint venture partners—the Foxboro Company of Foxboro, Massachusetts—who take their earnings from the Chinese market and yet need foreign exchange to buy components from the United States, the government has been willing to convert renminbi to dollars but with a 20% penalty on the official exchange rate, an expensive solution for Foxboro.

Negotiating deals for joint ventures can be expensive and time consuming—requiring as much as a year or more and repeated trips. Hotel accommodations and air transportation are expensive in China. Popular wisdom dictates that principles governing settlement of disputes should be written into contracts.

THE DOMESTIC ECONOMY

A meeting had also been arranged with Luo Shi Lin, a vice president of the People's Bank of China in Shanghai. Through Mr. Luo, we were able to learn a little more about the domestic side of the Chinese economy and the domestic side of Chinese banking for which the People's Bank of China is directly responsible.

The savings rate in China, Mr. Luo told us, is about 15% of income—similar to that now in Japan and much higher than the U.S. savings rate. About 30% of the investments made by the People's Bank of China come from personal savings. Both inflation and interest rates in China are very low. Since health care is provided free to workers and their families, and since retirement pensions are rather high—about 90% of wages—most Chinese save for things like bicycles and household appliances.

There are 400 branch offices of the People's Bank of China in Shanghai itself, and another 300 in the countryside surrounding Shanghai. Since Chinese can also do their banking in the post offices, there are total of 800 bank branches in the whole Shanghai area. In addition to this banking system, there is a strong system to credit cooperatives throughout the rural areas.

Mr. Luo explained that China maintains a fairly even international balance of trade by strictly cutting back on imports whenever that balance is threatened, even if it means cancelling industrial or construction projects. Recently there has been a tendency for some deficit spending in the national budget, but it is small by our standards.

We noticed a reticence, on the part of Mr. Luo and other Chinese officials we spoke with, to discuss some of the sticking points of commerce between the United States and China. In speaking with others unofficially, it seems that China is waiting for a political and economic assessment of the last nine years before they make any further major changes in their economy or their open door policy.

Life in China, especially in the rural areas, is still far from easy and there are few signs of affluence. There are those who could be considered wealthy by Chinese standards, but not-so-subtle social pressures demand that wealth be ploughed back into productive enterprise rather than spent ostentatiously.

Private industry is now encouraged in some sectors. Throughout China we saw long lines of private market stalls selling farm produce, clothing and arts and crafts. We were in China during the watermelon season so trucks, carts and hundreds of stalls were piled high with ripe melons and entrepeneurs seemed to be doing a brisk business.

Stalls are licensed by the government and are taxed. Those who work in the markets and other allowed private industries are not provided many of the benefits—free medical care, for instance—that most Chinese have come to consider a basic right.

The Chinese claim that the economy is growing by about eight percent per year. During the time we were in China, production figures just released showed industrial production up 14.6% for the first five months of the year over the same period the previous year.

China's claims of a booming economy seemed credible if judged by the activity in Shanghai Harbor. Our group took a boat cruise along the busy port on the Huangpu River. We saw freighters of dozens of foreign nations from the Middle-East to Latin America, Japan and the Soviet Union. Besides freight loading docks, we saw numerous drydocks and a small Chinese naval facility.

Shanghai and Guangzhou (long referred to as Canton) are both part of the string of "open-door" ports and "Special Economic

Zones" that occupy most of China's eastern coast. Throughout these bustling zones, road and building construction was heavy. Parts of Shanghai were virtually impassable because of large-scale additions to its transportation system.

It's hard to read the English language press in China without being assailed by statistics. Everything in China is ranked according to size and chronology. The city of Nanjing maintains as a major tourist attraction rivaling the Ming Tombs and the Sun Yat Sen Mausoleum, the Yangtse River Bridge built in 1968. This three-mile-long double-decker bridge with a four-lane roadway above a two-track railway, was the longest bridge in China when it was finished. In 1985, it was surpassed by the Yellow River Bridge in Shandong. Nevertheless, it is a source of great pride since it was built entirely without foreign help during the early years of China's development.

THE FACTORIES

Among the most productive industries apparent in China was that of crafts production. A small part of the Florida group made a visit to the Beijing Arts and Crafts Institute as the guests of the Deputy Director and Engineer, Wang Er Nan. Mr. Wang introduced us to the artists who design sculpture, paintings and other art forms in the ancient traditions. These designs are duplicated in arts and crafts factories in Beijing for sale in official craft shops inside China, as well as nations throughout the world.

The quality of artisanship was very high. The Institute receives commissions to produce major works of sculpture and murals for hotels and corporate headquarters. The Institute exhibits its works around the world. At the time we were there, the Institute had an exhibition in Spain.

Mr. Wang expressed an interest in setting up an arts and crafts exhibition in Florida as he has in some other states.

We had another opportunity to visit a factory in Wuxi, partway between Nanjing and Shanghai. This is a silkworm-growing and silk-producing area and we were invited to visit a silk factory there. The workers, mostly young and middle-aged women, worked very nimbly with aging but apparently well-maintained machines that drew the almost microscopic silk threads from the silkworm cocoons and twisted them into a silk thread before reeling them onto wooden spindles. The final products were the large burlap-bound bales of silk thread that would be shipped to the factories that wove the silk fabric. Like most factories we visited, this one had a gift shop with finished products available for purchase.

In Guilin, we visited a pottery factory that exported the bulk of its produce to Japan. We watched as the figures were modelled, dried, had glazes applied, and finally were fired. As with most other Chinese factories we visited, equipment was vintage and methods were labor intensive. However there seemed to be high quality and good productivity.

Ralph Schwartz of Daytona Beach, a member of our group who manufactures auto parts, visited the Beijing Minibus Factory where he met with Vice Chief Director/Engineer Yuan Jia Zhen. The plant produced 4000 one to three-ton minibuses per year, with a staff of around 2000 employees. The metal presses—up to 400 tons capacity—appeared to be Chinese-made.

Ralph found the minibus plant poorly organized and automated in comparison with U.S. plants, and was somewhat critical of the apparent lack of safety standards, but the buses were attractive and well put together, and considering the much lower labor costs, he estimated it to be unusually profitable by U.S. standards.

Ralph also visited the Shanghai Number Three Bicycle Factory where he met with Deputy Director/Engineer Chen Qing Yun. Here, they produce the Phoenix Bicycle, China's most popular brand. In the key areas, production was very time-efficient—up to the highest U.S. standards. They used state-of-the-art automatic electrostatic spray painting equipment.

Crowding and poor physical organization was also a problem here, but the factory seemed to be extremely profitable. The company exports one million bicycles a year to third world nations and produces around two million a year for sale in China. At around $50 each, foreign sales alone must easily cover total manufacturing costs by Ralph's estimates.

Many Chinese seemed to feel that western productive methods had touched off a competitive spirit within China, revitalizing industries that had become too comfortable.

THE TREND TOWARD CHANGE

On our last day in China, we took the train from Guangzhou to Hong Kong. Again we saw green and productive riceland, this time in harvest. The rice plants were being cut by hand and fed into portable one-man threshers. The machines were driven by a foot treadle which was being worked feverishly by one man as others brought armfuls of rice stalks.

We moved through the Shenzhen Special Economic Zone—one of several zones where foreign technology and foreign investment are being aggressively sought after to help increase China's productivity. It was chosen as a Special Economic Zone because it is adjacent to Hong Kong and its connections to foreign markets. As with other such zones, it is being built up as an industrial center through the offer of special privileges and tax incentives to financial and industrial interests from other nations.

This rather small municipality with its rising skyline was our last view of China, perhaps appropriately. We had seen a broad spectrum of life in China. From its city skyscrapers to its modest farmhouses * * * from mechanized factories to water buffalo-driven plows * * * from ancient artifacts to modern luxury hotels.

While China is changing rapidly, it would probably be unrealistic to suppose that the Chinese are moving inexorably toward a capitalistic economy. Chinese planners say orthodox Marxism requires a phase of "capitalistic development" and that by moving directly from an agricultural peasant economy to a socialist one, they missed the benefits capitalism can provide. They see this economic reform campaign as a way of going back and making up that part of their revolution. Their desire however, to cooperate with the west on a fair and equal basis, seems sincere.

Chinese Premier Zhao Ziyang has recently said that market regulation will take the place of direct control for most of China's economy in the future. China intends to limit the proportion of its economy governed by central planners to about 30%. Today, the proportion is 50%, and nine years ago, it was 100%. Already the 30% goal has been reached in the Special Economic Zones and many of the coastal areas where the open policy has been implemented.

China is making it clear that it plans to open its doors wider to the outside world and increase economic and technological cooperation with foreign countries. I think all of us in the Florida Bankers and Financial Leaders People-to-People delegation agree that China is moving forward economically. And if we can find a mutually beneficial way to do so, we feel that Florida could be a part of that progress.●

ANTITAKEOVER LEGISLATION IN THE STATES

● Mr. RIEGLE. Mr. President, antitakeover legislation is one of the major issues currently being debated in State legislatures across the country. In its February 7, 1988 issue, the Detroit News published a debate presenting the pro and con positions. Arguing in favor of State antitakeover legislation are Dr. Walter Adams, distinguished university professor and past president of Michigan State University, and Dr. James W. Brock, a renowned professor of economics at Miami University of Ohio; Drs. Adams and Brock are coauthors of "The Bigness Complex," selected as one of the 10 best business books of 1987. Arguing against antitakeover legislation is Dr. E. Han Kim, professor of business administration and finance at the University of Michigan. I am pleased to make this important and informative debate available to the Members of the Congress. Mr. President, I ask that the text of this article be printed in the RECORD directly following my remarks.

The article follows:

DOES MICHIGAN NEED AN ANTI-TAKEOVER LAW? PRO

(By Walter Adams and James W. Brock)

Anti-takeover legislation is a burning issue for state governments across the country, and Michigan is no exception.

The conflagration has been sparked by the massive corporate merger and takeover movement ensnarling the economy, and by Washington's dereliction in enforcing the federal antitrust laws. The number of mergers has set (and broken) record highs in each of the past few years. The dollars spent on this unproductive paper entrepreneurialism have skyrocketed from $33 billion in 1980 to $190 billion in 1986. It is ominous that, with the precipitous decline of the dollar, more and more of these takeovers involve the acquisition of American firms by foreign interests.

Promoters of this voracious feeding frenzy say it benefits small stockholders as well as the U.S. economy. They predict anti-takeover legislation would have catastrophic consequences. But does the evidence support these dire claims? It does not.

First, do mergers and takeovers really discipline substandard management? Do they really transfer control of business to more competent hands—all to the benefit of millions of small stockholders? No.

Target companies on average are just as (if not more) profitable than American companies generally or the raiders seeking to take them over.

Following takeovers, the stock value of acquiring firms typically falls—an average of 1 to 7 percent in the first year and a cumulative 16 percent in the three years after take-

over. This fact is not disputed, even by takeover aplogists.

These declines overwhelm and cancel out any stock value gains of target firms at the time of takeover.

The lion's share of the mind-boggling booty generated by mergers and takeovers does not primarily accrue to small stockholders on Main Street. The bulk of it is captured by the greed merchants on Wall Street—professional arbitrageurs, investment bankers, managers and stock jobbers, and (at times) criminally knowledgeable inside traders.

Small bond holders also lose when high takeover premiums, high debt/equity ratios and high fixed interest charges degrade the quality and value of their bond of holdings following takeover.

Keep in mind what a free enterprise economy is all about. It means producing better products at attractive prices—not creating artificial paper values by gun-slinging raiders or razzle-dazzle speculators.

Second, does merger and takeover mania really promote better economic performance, as its apologists claim? Again, the answer is no.

Mergers and takeovers have not enhanced operating efficiency. Aside from the plethora of scholarly studies, the headlines in prominent business publications tell the story: "Small is Beautiful," "Do Mergers Really Work? No, Not Very Often," "Big Goes Bust" and "Why Pastrami and Soap didn't Mix."

If mergers are conducive to efficiency, why is the failure rate so high? Some 40 percent of the corporate marriages consummated during the 1970s have ended in divorce.

Such evidence is not new: Half the mergers and takeovers negotiated during the great turn-of-the-century American merger movement subsequently failed.

Nor are these failures limited to the United States: European governments today are struggling with the inefficient, unprogressive and non-competitive companies they urged to merge for the past two decades.

Third, is it really true (as the promoters claim) that unsuccessful mergers and takeovers can later be undone and therefore pose no long-term threat to the economy?

In fact, the merger game is both unproductive and counterproductive. Years of managerial energies devoted to the merger and takeover game are also years during which management attention has been diverted from investing in new plants, new products, new manufacturing techniques and new jobs. Billions of dollars spent shuffling paper ownership shares are billions of dollars not spent on productivity-enhancing plant, equipment, and research and development (R&D). Hundreds of millions of dollars absorbed in legal fees and investment banking commissions are hundreds of millions of dollars not plowed directly into our industrial base. (Spending on mergers and acquisitions in 1985 exceeded combined corporate spending on R&D plus new plant and equipment.) These "opportunity costs" are real. They bode ill for an economy struggling to reindustrialize for global competitiveness.

In sum, the Michigan Legislature's effort to arrest merger madness is both appropriate and timely. It its final form, however, the pending bill should also require the filing of a "public impact statement" before any multimillion-dollar merger or takeover can be consummated. Such a statement should require a showing that the proposed transfer of corporate control would yield gains in efficiency, innovation, plant modernization and jobs. It should require a showing that any such gains are obtainable only by merger or takeover. In short, the "public impact statement" would require merger and takeover artists to justify their action in terms of the public interest, rather than narrow short-run advantage for a single special-interest group.

DOES MICHIGAN NEED AN ANTI-TAKEOVER LAW?

(By E. Han Kim)

The Michigan House overwhelmingly approved a bill last fall that would shield corporations from hostile takeovers. The bill is now being debated by a Senate committee. By imposing severe restrictions on the voting rights of bidders and prolonging the takeover process, the bill would discourage hostile takeover bids and help protect the managements of poorly run target firms. If enacted, it would harm Michigan's economy in the long run by inhibiting free inflow of capital for future productive corporate investments that provide jobs.

The threat of hostile takeovers is an important market-disciplinary force. When the executives of a poorly run firm resist change, a hostile takeover is often the only means of changing management and correcting misallocation of resources.

Unfortunately, many misconceptions exist about the economic effects of corporate takeovers. Critics argue that managers are so preoccupied with the threat of a takeover that they cannot concentrate on running the company. Good managers need not worry about such a threat because good management is the best protection against a hostile takeover. When a firm is run efficiently, its stock price will be too high for a takeover attempt. Only when a firm is run inefficiently will raiders find an attractive target: The stock market will value it below its full potential worth, providing a profit opportunity for raiders to exploit.

Protecting poorly managed firms from takeovers robs those who have invested their wealth in Michigan of an opportunity to earn their fair returns. Investors will respond by taking their capital elsewhere, leaving less capital for investment and fewer jobs in Michigan.

To illustrate, consider an investor who owns shares in a firm whose stock price has been depressed by poor management practices. The investor will experience a loss. In modern public corporations, most individual stockholders do not control enough shares to be able to discipline inefficient managers on their own. When the management resists change, there is little an unfortunate investor can do to recoup any losses other than hope for a takeover bid or sale of the firm.

In a recent study by professors Michael Bradley of the University of Michigan, Anand Desai of the University of Florida and myself, we found that when a company receives a tender offer (most hostile takeovers take the form of tender offers), its stock price increases by an average of 32 percent; and when there is more than one bidder for the same target, the average target's share price goes up by 45 percent. The findings are based on a sample of 236 successful tender offers during 1963-1984.

In another recent study I have conducted with Professor John Schatzberg of the University of Arizona, we found that when firms voluntarily liquidate, the share prices rise by an average of 34 percent. Voluntary corporate liquidations occur often as a reaction to takeover bids or as an outcome of proxy contests.

These gains, however, disappear when the target management successfully fends off the bid and maintains its independence. Thus by shielding inefficient managers from hostile takeovers, the bill now pending would in effect deprive the shareholders of an opportunity to make up the losses they suffered under inefficient management.

It has also been alleged that acquirers make "free money" when they take over a company. But in our study of tender offers, we found that during 1981-1984, acquirers on average overpaid $27 million in each successful tender offer, whereas target shareholders were paid not only what their shares were worth prior to the offer but an extra $234 million. This represents efficiency gains for the U.S. economy.

Proponents of the anti-takeover bill have also argued that large-scale mergers and acquisitions have diverted capital away from productive investments such as modernizing plants and research and development activities. Yet when target shareholders receive more money for their shares because of a takeover bid, where does the money go? If the target company is in Michigan, a substantial portion of the new money will stay in the state and find its way to the most productive uses, thus reinvigorating the Michigan economy.

The anti-takeover bill would further dampen investment by making capital more expensive for Michigan firms. Recent studies by the Securities and Exchange Commission and the Federal Trade Commission have found that anti-takeover laws in Ohio and New York caused immediate and permanent drops in the share prices of affected companies. The shares had become less attractive to investors. Lower stock prices mean higher costs of equity capital, which in turn means firms will require higher rates of return before undertaking capital projects.

The anti-takeover bill, if enacted, would act like a temporary antidote to a serious disease. Such a remedy may seem to bring instant relief, but it eventually worsens the affliction by treating the symptoms instead of the disease. Though takeovers cause short-term disruptions in inefficiently managed firms, they help the health of the Michigan economy by performing major surgery where and when it is most needed.●

ESTONIAN INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, today Estonians around the world mark the 70th anniversary of their Nation's last true Declaration of Independence. We join with them today in commemorating not just their declaration of independence and democratic constitution, but also their success and prosperity during the brief periods in which Estonia was not plagued by war and their stuborn will to survive annexation and repression at the hands of the Soviet Union. Their courage and determination over the centuries command our profound respect and admiration.

From the very beginning, an independence of spirit and the quest for liberty have been hallmarks of the Estonian people. The battleground of

endless foreign rivalries throughout the millennium, Estonia emerged from World War I a newly independent land eager to take the path of democracy, modeling its constitution on those of the French, Swiss and the Americans. Its fresh democracy invigorating a burgeoning economy, Estonia soon proved to be a shining model of political and economic diversity, of academic and educational excellence, and of agricultural and industrial growth. Estonians abroad, particularly in the United States, have carried that rugged independence of spirit wherever their fortunes have brought them. We in the United States can be especially proud today of our Estonian American friends' unique contributions to the fabric of America's culture, political system and economy.

Yet as we reflect on Estonia's brief period of sovereignty, we remember how quickly liberty was snatched from their grasp with the advent of World War II and the Soviet invasion. Witness to Estonia's continued repression, we are all the more solemn in commemorating that Nation's Declaration of Independence 70 years ago. Estonians today carry with them the memory of what their land once was and the vision of what it could be in the future. Their heroes of today come to mind, human rights activists such as Mart Niklus and Enn Tarto, men and women who defy Soviet authorities' temporal punishment in upholding the principles of the Helsinki accords. Many have spent most of their adult lives in the Soviet prison camps. Mr. Niklus, who first translated the Universal Declaration of Human Rights into Estonian, has spent many years in Soviet labor camps and prisons, including the notorious Perm camp 36-1, and he remains in solitary confinement. Mr. Tarto, currently serving his third long prison sentence, has been imprisoned simply for distributing unofficial literature, establishing contacts with emigres and signing statements protesting the Soviet Union's annexation of the Baltic States.

Despite official harassment, Estonians will not be denied their rights to free speech and assembly on this auspicious day. As Estonians gather today in their capital, Tallinn, which has been declared off-limits to Western diplomats and journalists by the Soviet Government in anticipation of the mass demonstrations, let us join with them to honor the memory of an independent nation and the perseverance of an indomitable people.●

CONCERNS OF DISABLED AND ELDERLY PERSONS

● Mr. SIMON. Mr. President, at the beginning of this year, while many of us were making New York's resolutions, some were looking at the opportunities the new year might offer—dreaming of how we can improve the future and make our country better for all of us. One of those making a wish list of dreams for a better future was Charles D. Goldman, an attorney who focusses on the rights of people with disabilities.

In the following article from "C.O.D.E., Concerns of Disabled and Elderly Persons," a Minnesota newspaper, Mr. Goldman describes the incompleteness of Federal laws protecting persons with disabilities and discusses the need for a Federal law prohibiting discrimination in places of public accommodation.

This is an issue to which we should give serious consideration. There is a need to renew our national commitment to our 36 million citizens with disabilities by ensuring that they are welcome participants in all parts of society.

Last year I had the opportunity to review Mr. Goldman's new book, "Disability Rights Guide," in which he sets forth practical solutions to problems affecting people with disabilities. I recommend the book, and the following article.

CONCERNS OF DISABLED AND ELDERLY PERSONS

While future articles in this space will provide practical insights into current legal issues or court decisions, this article recognizes that it is now holiday season. While we should be thankful for what we have, it is also nice to dream and make wish lists as well as New Year's resolutions. It is a time to try and sit back and relax and contemplate—even such seemingly mundane things as a child's game of catch or baseball.

As a practicing attorney my list would include laws to help my clients. Sweeping federal civil rights legislation prohibiting discrimination against persons with disabilities in all employment situations and in all housing related situations would definitely be included. Near the top, if not at the very top, of my list would be enactment of a federal law prohibiting discrimination against persons with disabilities in places of public accommodation. These are laws persons with physical or mental disabilities, physical and mental, need enacted to have full fledged federal civil rights.

Let me explain why a public accommodations law is at the top of my wish list this year. Places of public accommodation are the places where people are participants in the fabric of society. These are places and the activities within them where the public in general is invited and welcomed. These are parks, restaurants, hotels, banks, malls, stores, movies, theatres, concerts, stadiums, etc. Two situations this year, one involving a highly qualified disabled adult and the other involving disabled children dramatically underscore the need for this law as both entail exclusions and America's pastime, baseball. One concerns a softball league manager in Nebraska and the other, some prospective Little Leaguers in Massachusetts.

Let's put this in the perspective of time. Jackie Robinson, my boyhood hero in Brooklyn, was the first black major leaguer in 1947. Civil rights sit-ins and marches were the order of the day with Dr. King in the 1960s. The major civil rights bill of this century was the Civil Rights Act of 1964. By breaking the national logjam on civil rights for minorities it paved the way for enactment of other legislation, such as the Rehabilitation Act of 1973. The Civil Rights Act of 1964 is a national commitment to human decency for minorities. It guarantees equal employment opportunity and it guarantees the right to use public places, places of public accommodation. The federal law was a message to the states to enact similar protections and to the Nation that racial bigotry was intolerable.

Unfortunately, in 1987 while we commemorate the 40th anniversary of Jackie Robinson in baseball and the silver anniversary of the Civil Rights Act of 1964 is on the horizon, there is no similar guarantee of federal civil rights for persons with disabilities.

Persons with disabilities do not have the same protections and rights as other groups, such as minorities. There are no guarantees of civil rights in places of public accommodation or in most everyday employment and housing situations. The federal law is extremely limited, to employees of the federal government, government contractors and recipients. Only federally funded (not guaranteed and thus, not VA or FHA) housing is covered by the Rehabilitation Act mandate not to discriminate.

This cavernous gap of civil rights protections has been highlighted by the incidents in Nebraska and Massachusetts. In one, a man who is the coach of a softball team has been told he can no longer manage on the field in his wheelchair and must be on the sidelines. Until he was barred from the field last year, the man, Bob Lowenstein, like his able-bodied colleagues, had been managing on the field for years. The games are played where the public is invited. Bob Lowenstein is no ordinary person. He is a public school teacher who enjoys sports. He was also qualified enough to be appointed a Commissioner of the Nebraska Equal Opportunity Commission. Now he finds himself embroiled in costly, protracted litigation.

The other instance which perked me up recently is the situation brewing with Little League and some children with disabilities in Massachusetts. Initially the kids were barred from participating with their able-bodied colleagues. Now, Little League appears to have relented. Apparently, the powers that be cannot decide what to do with these kids who have disabilities and who want to play ball. While there are ongoing negotiations, litigation may be necessary to try and get the kids into the game.

The answer in both situations is simple: Let' em play. Both Bob Lowenstein and kids in Massachusetts deserve their chances. Lowenstein has proven he's capable of handling himself on the field. Disabled kids can play. Ask anyone who saw the baseball game at this year's Pan American games. The most valuable player was Jim Abbott, a pitcher from the University of Michigan, who happens only to have one arm. As a former youth soccer coach and referee, I know firsthand that sports can be the great equalizer and integrator. Kids are kids who play when alleged grownups do not interfere. Coaches, umpires, managers, referees, and players make reasonable accommodations by allowing kids to play to the best of the kid's abilities, not to the best of the parents' or administrators' preconceived standards.

Last spring Al Campanis, then a Los Angeles Dodgers Vice President, made remarks on television which shocked the country

into realizing how little executive and managerial equal employment there was for minorities in baseball. Will the Little League case be a similar catalyst for disabled persons? Disabled persons are at the point where they are trying to get into the game. It reminds me of the cartoon that appeared in the early 1970s in which a bus without a ramp/lift pulled up and a black person and a person in a wheelchair were there. The person in a wheelchair says "But some of us can't even get on the bus."

Both Bob Lowenstein and the would be Little Leaguers are going to be following state laws in their cases. Thankfully, most states, including both Massachusetts and Nebraska, prohibit discrimination against persons with disabilities in places of public accommodation. But would either controversy have arisen if there had been a national commitment, a federal law prohibiting such discrimination? Almost twenty-five years after enactment of laws prohibiting discrimination against minorities in places of public accommodation, the time has come for a similar federal law for persons with disabilities.

Jackie Robinson and Dr. Martin Luther King, Jr., would both have testified for such a law. They believed everyone had the right to be on the bus and in the game on their merit.

Holidays remind us of what we have, the goodness in people, our merits. But we need to think of the more that can and should be done.●

SR. M. EAMON O'NEILL

● Mr. HEINZ. Mr. President, I rise to honor Sr. M. Eamon O'Neill, dean of the Graduate School of Arts and Sciences of Marywood College in Scranton, PA, for her outstanding efforts to stimulate voter participation.

Today, the National Student/Parent Mock Election is recognizing Sr. Eamon, along with two other colleagues from Michigan and Georgia, for "national leadership in parent involvement and citizenship education, and her untiring effort on behalf of the Nation's children, their parents, and their teachers."

Mr. President, an active, involved and informed citizenry is the key to a viable democracy. Yet, statistics indicate that voter apathy has reached epidemic proportions, particularly among younger voters. In 1984, only 83 percent of the eligible voters under 30 bothered to vote. How can our freedoms be protected if so few young Americans care to participate?

Sr. Eamon is working to reverse those statistics. As Pennsylvania Statewide Coordinator of the National Student/Parent Mock Election for the last 10 years, Sr. Eamon has taught thousands of Pennyslvanians what is meant by responsible citizenship. In 1984, 75,000 Pennsylvania students and parents cast their ballots in the mock elections, and over 2 million Americans participated nationwide.

In 1988, organizers of the National Student/Parent Mock Election anticipate that between 5 and 10 million will participate. Participants in these mock elections learn to discuss their decisions with their parents and friends. They develop an interest in critical national issues. And most important of all, they learn the lessons of democracy by becoming involved in the decisions that affect us all.

Mr. President, the award that Sr. Eamon is receiving from the National Student/Parent Mock Election states that, "Informed and participating citizens are the strongest guarantee of our freedom." Sr. Eamon and her colleagues throughout the country are working to ensure that we continue to have an active and informed citizenry.

The country owes Sr. Eamon a great debt. I urge my colleagues to support the National Student/Parent Mock Elections in this vital work, and I congratulate Sr. Eamon for her outstanding achievements.●

CHILD CARE SERVICES IMPROVEMENT ACT, S. 1678

● Mr. DECONCINI. Mr. President, I ask unanimous consent that my name be added as a cosponsor of S. 1678, the Child Care Services Improvement Act which was introduced by Senator HATCH on September 11, 1987.

As an original cosponsor of S. 1885, the Act for Better Child Care Services, the comprehensive child care bill which was introduced by Senator DODD, I have debated long and hard on whether to add my name to the Hatch bill as well. While there will be those who will vigorously disagree with my decision, I have concluded that the more public attention that is focused on the child care issue, the greater the opportunity for resolution of this matter.

Mr. President, all the polls indicate that child care is one of the most difficult issues confronting families in modern day American society. In a majority of our families both parents have to work to make ends meet. That is a simple fact of life. And the incidence of the two working parents family will only increase in the months and years ahead. Yet, we as a society have failed to put the issue of child care on the front burner. We can no longer afford to do that if the family is going to survive and thrive in modern society.

Mr. President, not only is there an inadequate supply of child care services in America today, there is a grossly inadequate supply of quality and affordable day care. No parent should have to spend his or her entire working day wondering if his or her child is in good hands, whether the child is being well fed, whether the child is being abused. Working together, I am confident that we can lift this awful burden from the American family.

While I do not support every element of the Hatch bill, I am encouraged that he has developed a child care initiative. The more Members of Congress who become involved in this issue, the closer we will be to a resolution of this troubling problem. Senators CRANSTON and DODD have been working on this issue for many years. I have learned a great deal about this issue from them and have enjoyed a close working relationship with them and their very able staffs. I look forward to working with Senator HATCH and his staff as well.

Mr. President, I believe the revolving loan fund, the tax incentives and the insurance liability pool provisions contained in the Hatch bill are laudable ones which I can enthusiastically support. I do have problems, however, with other elements of the bill, particularly some aspects of the tort reform provisions and the failure to link block grants to States to specific standards. But working together, with constructive debate, I am confident that we can formulate a bill which can pass both Houses of Congress and be signed by the President. The legislative process is one of give and take. And we have a right and duty to fairly consider all the options on the table. I intend to do just that.

Once again, I commend Senator HATCH for the time and effort he has put into developing a child care initiative. I look forward to working with him, and Senators CRANSTON and DODD as well as the Alliance for Better Child Care on this vital matter.●

ESTONIAN INDEPENDENCE DAY

● Mr. DECONCINI. Mr. President, on this day, February 24, 1988, Estonians all over the world will celebrate the 70th anniversary of the declaration of independence of the Republic of Estonia.

Unfortunately, the celebrations in Estonia itself will be somewhat subdued. For the last 48 years, Estonia, along with its Baltic neighbors Latvia and Lithuania, has been illegally, blatantly, and brutally occupied by the Soviet Union.

The United States has never recognized the illegal occupation of Estonia, and to this day recognizes the Estonian mission in New York City as the legitimate diplomatic representative of Estonia.

For 47 years, the Soviet Government has tried vainly to eradicate Estonian national consciousness, the language, the cultural heritage, the memory of freedom. In 1940 and 1941 alone, over 40,000 Estonians were sent to Siberia. Thousands more followed when Stalin reestablished control after World War II. The last President of Estonia, Konstantin Pats, disappeared into the Gulag without a trace. In free Estonia, his birthday would have been celebrated yesterday, February 23.

In an interview following his emigration to the West, veteran Ukrainian political prisoner Danylo Shumuk described the fate of Estonians in Stalin's death camps in the late 1940's and early 1950's:

Between 1945 and 1953, the largest proportion of those who died were Estonians. They found it especially difficult to master Russian and they did not adapt to the Gulag's conditions as quickly as the Ukrainians, Lithuanians, or Latvians. The Estonians would work until they dropped and then die of hunger.

Following Stalin's death, the repression in Estonia became more subtle, but no less harmful. Free political expression was out of the question, as was unhindered travel abroad or emigration. Many works of preoccupation literature and music were banned, historical monuments destroyed, and the Estonian language downgraded in schools. The history taught in those schools was distorted beyond recognition in a vain attempt to keep Estonian youth from learning the truth about their nation's past.

Moreover, immigration of non-Estonians has threatened to make Estonians a minority in their own country. In a sense, Estonians are being punished for their own industriousness, their stubborn refusal to turn their formerly prosperous little nation on the Baltic into a typical Sovietized wasteland. Everyone wants to move there. Due to its strategic location, Estonia is also bristling with military installations. There are over 150,000 Soviet occupation troops in Estonia, which works out to one Soviet soldier for every 6.67 Estonian man, woman, and child.

But Estonians have continued to resist. Strikes and work stoppages have been staged by workers, the flag of independent Estonia is raised surreptitiously over public buildings, and spontaneous demonstrations break out at public gatherings. Two of the most prominent dissidents remaining in the infamous Perm labor camps are Estonians, Mart Niklus and Enn Tarto. Their countryman Yuri Kukk died in March 1981 during a hunger strike while being transferred to a labor camp following conviction on political charges.

Meanwhile, changes are occurring in the Soviet Union, even in occupied Estonia. Glasnost, the "giving voice" through which General Secretary Gorbachev hopes to invigorate the Soviet people and resurrect the moribund economy, has given voice to the demand for truth. The first 6 months of 1987 saw active protests by Estonians against the phosphate mining that Moscow seems determined to carry out despite the hazards to the local populace. On August 23, 1987, the anniversary of the signing of the Molotov-Ribbentrop Pact, there were demonstrations throughout the Baltics. In Tallinn, the capital of Estonia, several thousand people marched in solidarity with activists in Latvia and Lithuania, calling for the publication of the Pact, exposure of Stalin's crime, and the release of political prisoners.

Events have since moved quickly. There have been more demonstrations. Some organizers have been expelled from the Soviet Union, others have reportedly been beaten by the police. The Estonian Communist Party Secretary for ideological work has been fired. The press has begun to seriously address the relationship between Estonian natives and Russian immigrants. Four Estonian intellectuals have publicly proposed a plan for making Estonia economically self-sufficient from Moscow. And 16 dissidents have founded the Estonian National Independence Party to "restore a free and independent Estonia."

Mr. President, Tass reported recently that General Secretary Gorbachev plans to convene a special party meeting in the near future to deal with nationality issues. If Moscow is serious about easing the nationality question in Estonia, it might heed its own Constitution, specifically article 72, which states that each Soviet republic retains the right to freely leave the U.S.S.R. According to Soviet historiography, the Estonian people voted, by more than 90 percent, to enter the Soviet Union in 1940. After 48 years, perhaps its time to have another vote.●

TRIBUTE TO BONNIE BLAIR

● Mr. SIMON. Mr. President, I want to call the attention of all of my colleagues in the Senate to the exceptional accomplishment of an outstanding young woman from Champaign, IL. On Monday, February 22, 1988, Bonnie Blair of Champaign established a world record time of 39.12 seconds for the 500 meter speed skating event and won America's second gold medal in the Winter Olympics. I want to join my distinguished colleague, the senior Senator from Illinois, ALAN DIXON, in commending Bonnie Blair on her singular accomplishment.

Ms. Blair is a wonderful example to all young women of what hard work and dedication can do for someone who wishes to achieve athletically. She also serves as a reminder to those of us in the public sector of the importance of title IX of the Education Amendments of 1972. My own daugther Sheila—during her collegiate days at Wittenburg University—excelled in intercollegiate athletics as a result of title IX.

Recently, during our debate on the Civil Rights Restoration Act, the Senate took important steps to continue our commitment to nondiscrimination in Federal programs and continue opportunities for women in intercollegiate athletics. If we doubt our wisdom in that regard, we should remember Bonnie Blair and her world's record, as well as countless other women who benefit from title IX on a daily basis.

Congratulations to my fellow Illinoisan, Bonnie Blair.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, it is with great pleasure that I am able to announce that the need for my repeated statements on behalf of Naum Meiman is drawing to a close. On Friday, Naum Meiman will be leaving the Soviet Union and traveling to Vienna. Then, at long last, on Sunday Naum will fly to freedom in Israel.

Ironically, Naum's release comes on the 1-year anniversary of Inna's death. It is indeed tragic that Naum will not be able to rejoice in his freedom with Inna. Let us hope that we all have learned a valuable lesson from their personal tragedy. Freedom cannot be based on ill health and years of struggle. Freedom, basic religious freedom, must be guaranteed for all regardless of their nationality or homeland.

This past month has been a time of celebration and great relief for Naum, his loved ones, and those that have worked so hard to obtain his release. Though we share Naum's happiness, we cannot end our commitment to the thousands of refuseniks whose struggle continues. We must continue to honor and remember those who live with persecution every day of their lives merely because of their religious faith. We must continue to speak out. We must remain vigilant. Mr. President, I pledge to continue my efforts in this area and I urge my colleagues to do the same.●

KING BIRTHDAY AND BLACK HISTORY MONTH

● Mr. SIMON. Mr. President, February marks the nationwide celebration of Black History Month. It is a time when black Americans look with pride upon their past, present and continuing contributions to American history, culture, government and public affairs, national defense, education and every other aspect of our lifestyle. It is a time to recall the achievements of Frederick Douglass and Sojourner Truth; Booker T. Washington and Mary MacLeod Bethune, General Daniel "Chappie" James and Dr. Charles Drew, Madame C.J. Walker and Benjamin Banneker, as well as to acknowledge the contributions of Marian Anderson, Louis Armstrong and Rosa Parks; and praise the diligent efforts of Shirley A. Chisholm, Barbara Jordan and Blanche K. Bruce.

The importance of Black History Month to white Americans should not

be overlooked. It is a chance for many of us of become informed about the contributions of black Americans to the development of this Nation. From inventing the traffic light to discovering blood plasma, from being the first to die in our country's fight for freedom and independence to completing the work of laying out the city of Washington, D.C.—we would not be what we are without black Americans. For most of us our knowledge is limited and our information spotty at best. We know of Martin Luther King, Jr. and his fight for civil rights and we are familiar with many of our current political leaders.

I had the opportunity on January 18, 1988 to be a part of history as a participant in the Third Annual Celebration of Dr. King's birthday as a national holiday at Ebenezer Baptist Church in Atlanta, GA. As Dr. Joseph Lowery, president of the Southern Christian Leadership Conference [SCLC] and pastor of the Cascade United Methodist Church told us, this was the ". . . nineteenth celebration of Martin's birthday as a holy day." This was a unique opportunity to hear leaders talk about this great man and the struggle he lead.

One of those who spoke was our colleague Senator LOWELL WEICKER. His speech, among others, moved those in the audience to stand and applaud. I, too, was moved by his eloquence and sincerity. I hope all of my colleagues will take time to read his brief statement.

Mr. President, I ask that Senator WEICKER's statement of January 19 be inserted in the RECORD.

The statement follows:

REMARKS OF SENATOR LOWELL WEICKER, JR., EBENEZER BAPTIST CHURCH

Good morning. It is a great honor for me to share in this memorial service in a church that was so much a part of the life of Martin Luther King, Jr., his family and community. In these pews, he worshiped as a youth. And when he became a man, these walls rang with his words.

But the nation celebrates today because Dr. King took the gospel of brotherhood and of justice beyond these doors. Picket lines and jail cells became his pulpits. And before long, poor people and Presidents alike joined his congregation.

Dr. King spoke out of love without ever shying away from the truth. His message: redemption and reconciliation were possible but only if the American people had a true change of heart. His goal: a country as good as its Constitution. "Now is the time to make real the promises of democracy," he told us. Now, not tomorrow, or some day in the indefinite future.

For too long, there were those in New England who pretended that racism in America was the fault of a few southern Senators blocking civil rights legislation. Well, we now know that the problem was not a filibuster, but a failure nationwide to deal with discrimination. Once Dr. King and the men and women of the Southern Christian Leadership Conference and the young Freedom Riders and all those who manned the movement forced truth into the open, civil rights legislation rolled through Congress. There was no stopping it.

Twenty years have now passed since the night when shocked Americans gathered in vigil and vowed that all Dr. King had done would not be in vain. Yet today that vision of opportunity is still obscured by the fact of oppression—and our generation needs to face up to it.

During the last decade we have seen a systematic dismantling of civil rights enforcement, an abandoment of our commitment to equal justice under law, and just as ominous, a failure of the people to insist on their hard-won rights.

Recent actions by the courts combined with inaction by Congress have made it possible for institutions—schools, hospitals, even local governments—to discriminate against black Americans, Hispanics, the elderly, the mentally retarded and women and still get the benefit of our tax dollars. Congress could pass a law tomorrow to put an end to subsidized discriminaiton, but it won't until the voice of a nation is heard.

For all the truth of a Justice Department in fundamental disagreement with the Bill of Rights, the truth is also that few Americans are going much to advance a civil rights agenda in Congress, the White House, statehouses or town halls. Judge Bork was right about one thing; courts are supposed to be the last repository of our rights. The people, their legislators and their President are the first. Let me repeat, so this is not a fingerpointing exercise at some mythical "them". People—that's us, legislators—Democrats and Republicans, and our President are No. 1 to make things happen. Yet today, everybody waits and no battle is joined.

Now, I am well aware that Baptists are known for their church music, but I would like to leave you with a hymn from my faith. "Once to every man and nation comes the moment to decide, in the strife of truth with falsehood, for the good or evil side. * * * Then it is the great man chooses, while the coward stands aside 'till the multitude make virtue of the faith they had denied."

Martin Luther King, Jr. did not wait for the multitude. He talked and wrote and marched through the intimidation, through the violence. And in the end, even death was an ally as his example lives as powerfully as the man.

We do Dr. King's memory an injustice if all we do is wait. Instead, we must act. And the time to do that is now—as soon as we leave this church.●

DR. LEROY KEITH

● Mr. SIMON. Mr. President, on Saturday, February 20, 1988, Dr. LeRoy Keith was installed as the eighth president of Morehouse College in Atlanta, GA. Morehouse is one of the stellar members of the Atlanta University Center and the historically black college and university community. Dr. Keith's inauguration represents a singular achievement for Morehouse College, as it brings one of its own home to lead this outstanding institution of higher education, and an important accomplishment of him as an educator—he could be paid no higher compliment than to be asked by his own alma mater to join its short list of select individuals who have served as its presidents.

Among those individuals are two whom I have known. Dr. Hugh M. Closter, who retires after 20 years as president of Morehouse and two decades of leadership in higher education—as a spokesperson for black higher education, and as one of the outstanding college presidents in America. He leaves Morehouse with a stronger endowment, an improved physical plant, and an enhanced academic environment for the development of young, black men's minds. One of our Nation's most beloved educators was Dr. Benjamin E. Mays. While he was well known in the black community, his academic lantern was bright but hidden from the eyes of many white Americans. Jimmy Carter during his presidency took counsel on education, as well as other issues, from Dr. Mays. Dr. Mays' light took on new meaning and purpose during this time, although he was up in years.

One of my favorite quotes comes from Dr. Mays:

It must be borne in mind that the tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It isn't a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim, is sin.

Mr. President, some might ask what is there left for Morehouse to do? Are there other financial resources mountains to climb? Other fertile academic fields to be plowed? Dr. Keith has answered in the affirmative during his inaugural address. He sets forth a bold plan of action which represents a true challenge for the trustees, faculty, staff, students and alumni. I ask that his remarks be included in the RECORD. I also urge my colleagues to read and understand from Dr. Keith what black higher education is doing to provide expanded educational opportunities for black students at a time when despite major opportunities—higher education is still often segregated and rising costs represent a clear barrier to the poor, especially those who are black and brown.

The speech follows:

INAUGURAL ADDRESS OF PRESIDENT LEROY KEITH

Mr. Chairman, Mayor Young, Dr. Gloster, Mr. Alexander, members of the board of trustees, students, faculty, staff, alumi, representatives of colleges, universities and learned societies, friends and relatives, I am grateful and extremely honored to be inaugurated as the eighth President of this great citadel of learning called Morehouse College. This occasion will hold rank in my memory along side my marriage to Anita Halsey Keith, my wife and best friend, and the birth of my four children, Lori, Susan, Kelli, and Kimberly. I only wish that Roy and Lula Keith, my parents, were here to

share this experience with us because they made this day possible by instilling in me the virtues of discipline and achievement and the necessity to be a decent human being in whatever I endeavored to do in life. There are many people in this chapel today who have played a role in my life and career, especially my friends and relatives from Chattanooga who are so prominently represented. When hometown people are around, they renew your sense of humility with such statements as "I knew you when you were knee-high to a duck" or I used to change your diapers." It is good to have you all here today.

My beginnings at Morehouse take me back to the year I entered as a young college freshman. As I reflect back over my student years at Morehouse, they have become more meaningful with time. My reflections take me back to the charge to my graduating class of 1961 by President Benjamin Elijah Mays which was a prophetic statement for me. The following are two excerpts from that charge:

"There is an air of expectancy at Morehouse College. It is expected that the student who enters here will do well. It is also expected that once a man bears the insignia of a Morehouse graduate he will do exceptionally well. We expect nothing less.

"May you perform so well that when a man is needed for an important job in your field, your work will be so impressive that the committee of selection will be compelled to examine your credentials. May you forever stand for something noble and high. Let no man dismiss you with a wave of the hand or a shrug of the shoulder."

On that day in June as I sat listening to the inspiring words of Dr. Mays, I had no idea that the reigns of leadership of Morehouse would someday be in my hands. You never know what fate has in store for you, but I thank God for the good fortune to be here today in the Martin Luther King, Jr. International Chapel to accept my calling.

But Morehouse College is more to me than just my alma mater, and it is more to me than just an institution of higher education; it represents one of the best examples of what can be achieved with limited resources through dedication and perseverance, by people with an unyielding vision for facilitating a higher quality of life for mankind. Morehouse throughout its 121 year history has consistently made a major impact in almost every facet of society through its graduates who are in leadership positions throughout the world. One can only conclude that this small liberal arts college has been nothing short of amazing. The "House" and the "Morehouse Man" are held in high esteem in almost every part of the globe.

The vision and leadership of its trustees and presidents, the dedication and excellence of the faculty, the excellence of the student body, the hard work of the staff, the quality of the alumni and support of friends have made it possible for Morehouse College to take its place among the finest institutions in the country. It is truly a national treasure whose mission of producing outstanding black male leadership must be enhanced.

This is why I stand here today feeling very proud that I have been chosen to take the mantel of leadership of this very important college.

Most would agree that there is an illustrious history of accomplishment at this college. However, it will not suffice for Morehouse to live on past accomplishments. This administration is committed to maintaining the tradition of excellence already established. But, maintaining a tradition will be insufficient. What is required is the enhancement of an impressive legacy; our future bristles with possibilities. It is the goal of this administration to continue to cause the frontiers of ignorance to recede into nothingness.

Accordingly, there must be a vision for Morehouse that is comprehensive in scope and that will test the limits of our stamina and perseverance. In other words, we will have to work untiringly to increase the college's competitiveness as we approach the 21st century. To this end, I envision a Morehouse that will compete with the finest liberal arts colleges in the country when measured by any of the indices of quality used in higher education. My vision also calls for Morehouse to continue to be the most prolific producer of black male leadership in the Nation. This would probably be one of the most significant contributions the college could make to society given the dismal outlook for black males based on most social indicators.

But before I discuss my hopes and dreams for Morehouse, let me say that the intangibles that have always permeated this college must be preserved and treated with tender loving care. We all know that there is a certain spirit that exists here which is unique to Morehouse. It is a spirit that has transformed teenagers into young men who are self-assured and intent on accomplishing their goals. It is a spirit that builds character and self-esteem. It is a spirit that when combined with our rigorous academic programs makes the "Morehouse Man" a man for all seasons. Some call it indoctrination and some call it an on-going orientation. But I call it a mosaic of the spiritual, philosophical, and intellectual. I pledge to you that I will endeavor to protect these special properties of our college. The mystique of Morehouse will live on.

However, the Morehouse mystique alone will not enable us to prosper in the future. We will have to establish some very bold goals and objectives from which our priorities will be derived.

In order to fulfill our goals and objectives, we will first need to determine the optimum enrollment level for the college. Although we are receiving applications in unprecedented numbers, we must set enrollment goals. I envision the Morehouse of the future as slightly smaller in enrollment but with increased quality in its academic programs, students, faculty, staff and facilities. Our time and energy must be focused on the quality of the college as we move toward a more competitive era. The downsizing of our enrollment will result in a lower student-faculty ratio which will allow for the kind of interaction between students and faculty that is characteristic of a high quality undergraduate institution. Intellectual discourse between faculty and students will be far better served in a small intimate environment. In addition, academic advising by faculty will be enhanced.

It is my hope that the Morehouse of tomorrow will remain exclusively an undergraduate institution. I believe it will take all of our physical, mental, emotional and financial resources to advance our mission as an undergraduate institution of distinction. Our graduates will continue to have tremendous opportunities for graduate and professional study throughout the world. Because graduate education is very expensive, it would have a deleterious effect on the quality of our undergraduate programs if it were introduced here.

I believe the Morehouse of the future should have a more integrated core curriculum that will help students to understand the interrelationships between the liberal arts disciplines. To this end, I will ask the faculty to begin a comprehensive review of our General Education Program. This review will assist us in determining the strengths and weaknesses of our core curriculum. At the same time, I will initiate an on-going program review process at the departmental level.

In connection with the review of our academic programs, we must strive to develop more balance in program interest throughout our curriculum. To be quite succinct, the humanities and social science programs at the college should receive more emphasis. We will need to help our incoming freshman and continuing students to understand that there are many career options available to them if they pursue a major in these disciplines. Major corporations will gladly hire our liberal arts majors as they do our business majors. We will never attempt to dictate students' majors but we can do a better job of making them aware of their options.

In the past we have been a leader in the percentage of our students that earn doctoral degrees; however, there has been a decline in Morehouse students who go on to pursue Ph.D.'s. This is a national trend that could result in the absence of black faculty at American colleges and universities in the next century. It is important that we continue to be a leader in producing academic leaders of tomorrow. I also believe that career opportunities for graduates will improve in secondary schools. More States are changing their teacher certification laws to allow liberal arts majors to teach without having completed a professional education curriculum.

To interest our students in graduate school and teaching, Morehouse has implemented a program funded by the Ford Foundation with matching funds from the Pew and Culpeper Foundations. We were the only historically black college funded for this program by Ford. It is a terribly important program to Morehouse and the country, and I pledge to continue this program perhaps at an expanded level.

At the same time that the college enhances its liberal arts curriculum, the Morehouse of the future will have an even stronger curriculum in the sciences, an area that the college is noted for throughout academia. The new biology and chemistry building now under construction will be a state of the art facility for an undergraduate college. It will bolster our already strong reputation for producing outstanding majors in biology and chemistry who have gone on to pursue medical, dental, and Ph.D. degrees. This new facility will also allow the faculty to expose our students to more research projects which are becoming a focus in quality undergraduate colleges.

In the future, our business programs will grow more in quality than quantity. This program is currently oversubscribed and therefore we will need to place limitations on future enrollment. On the other hand, our business majors are beginning to dazzle interviewers from corporate America with their intellect and presence. I believe many of these young men will be heard from again in the executive suites of major corporations as well as through their own entrepreneurial ventures.

As we move toward the next century, the need for a highly technical workforce will be more acute. Morehouse should continue to do its part in supplying leaders in high technology through its own science and math programs and through the enhancement of the dual degree program in engineering with Georgia Tech and the other participating institutions.

We will also establish our own computer science program through a sharing of resources with the other three undergraduate colleges in the Atlanta University Center.

The realization of this goal has been greatly enhanced by the generous gift of a computer lab to Morehouse College by the Apple Computer Company in honor of Mrs. Camille Cosby. In addition, we should soon have other funding to make computers accessible in every classroom, building, dormitory, and office at the college.

As we are all aware, computers will continue to play a dominant role throughout society. I believe that all of our students, regardless of major, will need significant exposure to computers to be competitive in the job market as well as graduate and professional school.

In this complex world of ours where young people have many choices and decisions to make, it would seem very appropriate that through seminars, we could increase the exposure of the Morehouse student body to the issues of morality and ethics. Morehouse is in the business of training leaders, and it is especially important that our graduates have the appropriate underpinnings to be good leaders. For a leader without sound ethical and moral values will become infamous.

It is a known fact that while the world is becoming more complex, it is also getting smaller. Therefore, the future of the nations of the world will become inextricably linked to one another. Our students must be prepared to live in an environment that will require greater interdependence among all people regardless of geographic differences.

I will ask the faculty to develop plans for a program in international education that will focus on the language, culture, history and economics of selected countries throughout the world. I believe funding will be available to pursue this program, perhaps in partnership with another Atlanta University Center college.

As I stated earlier, we have been in the business of developing black male leadership for 121 years. Given the very disturbing trends regarding black males, I think the logical place to begin a serious research program on the study of black males is Morehouse College. Thus, this semester I will appoint a committee to begin the development of a conceptual framework for the Morehouse Research Institute. This would hopefully be an interdisciplinary research institute that would collect data and develop policy alternatives that might impact local, State, and Federal policies in a manner that would help the plight of blacks in general and black males in particular.

The Morehouse students of the future will need to experience a higher quality of life on campus. Accordingly, we will strive to create an environment for students that will be more conducive for the pursuit of their educational goals and objectives. This will include improvements in the buildings and grounds of the campus and increased opportunities for student participation in extracurricular activities. We will endeavor to develop a prominent collegiate atmosphere on campus with a better gathering place for student interaction. Campus and commuter students both need to have a place to study and relax between classes and in the evenings. It is imperative that we make this happen. One positive step in this direction is the renovation of the Frederick Douglas commons which will begin in the next few weeks.

A small liberal arts college like Morehouse is obligated to have academic and student services that are efficient and respond effectively to the needs of students. The college has a dedicated and committed staff that will be working very hard to expand and improve the scope of services available to the student body. The opening of the new counseling center this month will most certainly be an important addition to the services available to students. This academic year we will review our academic advising system to determine our strengths and weaknesses and to make recommendations for improvements. In addition, we are currently assessing the needs of other administrative offices that are central to student welfare.

In our quest to improve the overall environment of the campus, we will work closely with the other institutions in the Atlanta University Center and with city officials to enhance the neighborhood where this important higher education complex is located. We cannot ignore the needs of our neighboring community. As a distinguished institution of higher learning, Morehouse must continue to be on the cutting edge of social change. This is a part of our credo.

I believe we should continue to encourage cooperative efforts with the other institutions in the Atlanta University Center complex. Collectively, we have a rich pool of intellectual resources to share with each other.

Let me now briefly discuss the priorities that we are presently addressing and that will continue to be of major importance in our long range plans.

First, it is widely recognized that the reputation of a higher education institution rests first and foremost with the quality of its faculty. The faculty is the lifeblood of Morehouse College. Without a strong faculty, Morehouse will reduce itself to mediocrity. This institution is far too important to let this happen. Therefore, we must be in a position to recruit the very best faculty available to the college. We have a strong faculty, but we must augment their ranks and then retain these scholarly professionals.

The college received word this week that it has been awarded a $10,000 planning grant from the Bush Foundation for faculty and staff development. I am hopeful that this grant will allow us to develop plans for a comprehensive faculty development program. However, our faculty development program is still in need of additional resources. Also our compensation package for faculty and staff must be improved. It is imperative that salaries and benefits for our faculty and staff become more competitive. This concern must rank among the highest priorities of the college and will receive immediate attention.

Although Morehouse is basically a teaching institution, we will develop incentives for faculty participation in research and public service.

Another high priority for the future is to ensure the assessibility of higher education to all who plan to attend Morehouse, regardless of financial need. This can be possible only if we are in a position to provide more scholarship assistance from the college's endowed scholarship fund. As we all know, Federal student assistance programs have not kept pace with the cost of a college education. In addition, Federal policies regarding student assistance now place a much heavier loan burden on students eligible for financial assistance. The shift from grants to loans is a disincentive for many potential college students. In light of these policy changes at the Federal level, we will need to step up our efforts to increase our own scholarship funds. We want to always make a Morehouse College education available to that student from a small Georgia hamlet who has a thirst for knowledge. We will concentrate a large part of our fundraising efforts on bolstering our scholarship funds.

Our student body will also continue to reflect diversity. We will not rely solely on quantitative measures to determine the eligibility of students for admission to Morehouse. Many of our students have come to us as "diamonds in the rough" and leave as "polished jewels" who go on to become outstanding citizens. This to me is the essence of exploiting the human potential for the betterment of society. This is a central part of our mission.

I have already spoken briefly regarding the need to improve and maintain our facilities; these facilities include our academic and nonacademic buildings and equipment. The educational program of the college cannot be first rate unless our facilities are first rate. This means that the buildings of this campus complex will need to be maintained on an ongoing basis. Starting with the next fiscal year, the budget will include a line item for facilities renewal that will be utilized to make repairs and upgrading where required. We also need to have state of the art equipment to facilitate quality instruction in our classrooms and laboratories. At the same time that we will aggressively pursue comprehensive renovation, I envision only modest growth in the physical plant in the future. This would be consistent with our goal for stabilizing enrollment and concentrating on quality.

For the college to pursue its goals and objectives and to address the aforementioned priorities, a college-wide planning process will be implemented as soon as possible. A planning committee representative of the college community is being structured now.

As you can see, Morehouse college has a long and awesome agenda ahead which will require a herculean effort on the part of every constituent group at the college and increased support from outside sources. But in order to generate more outside funding, the college must do a better job of helping itself. The alumni of Morehouse is a very distinguished body which has the potential to increase its participation in giving to the institution. I truly believe that the deep love and great enthusiasm that alumni have for Morehouse College can serve as a manifestation for an extraordinarily successful alumni giving program. We will need to develop a formal structure for our alumni fund raising effort and perhaps designate it as the Morehouse annual fund. I believe the annual fund should have an overall goal with each region of the Alumni Association having its own goal.

The alumni can be of great assistance to the college in numerous other ways including serving as role models for our students, participating in local alumni club recruitment programs, and networking for students. I have already asked the alumni to increase their involvement in the recruit-

ment of students and financial aid counseling in their local areas. We held our first alumni workshop on admissions and financial aid in December which was successful. I believe the alumni can provide invaluable assistance to students and parents as they weave their way through the complicated web of financial aid regulations. I also believe that an alumni program for interviewing prospective students can help us in the admissions process. I welcome and encourage your support and cooperation, for your continuing role is essential to a bright future for the college.

In addition to increased alumni support, Morehouse must solicit from corporations, foundations, government and individuals. In the near future, I will present plans to the trustees for a very ambitious fundraising program to raise money to increase our endowment and to address our operational needs.

Since its founding in 1867 at the Springfield Baptist Church in Augusta, GA, this small college seems to have been destined for a special place in history. It has endured in spite of racial oppression and other barriers. Remarkably, here we are in 1988 with a Morehouse College that would amaze its founding fathers who probably had no idea that the institution they started with a limited objective is now a prominent college with unlimited potential.

This brings us to today, February 20, 1988 where on this day Dr. Hugh Gloster and I have formally completed the transition of the responsibility for the advancement of Morehouse College to me. But as Dr. Gloster, knows it will take the coalescing of many people around the plans and aspirations of the president to make this administration successful.

I urge you to join me in this effort to propel Morehouse into the 21st century with the competitive edge to be deemed one of America's foremost institutions of higher learning. The House will become a stronger house.

With God's help, we will realize our goals.●

ESTONIAN INDEPENDENCE DAY

● Mr. WEICKER. Mr. President, today marks the 70th anniversary of the declaration of independence of the Republic of Estonia. I am honored to join with Estonian-Americans and Estonians throughout the world in commemorating this day and in showing support for Estonian people in their difficult struggle to gain independence.

On February 24, 1918, the people of Estonia proclaimed their independence and freedom. Estonian independence was confirmed in 1920 when the Soviet Union signed a peace treaty with Estonia recognizing the new republic and renouncing all rights of sovereignty over the Estonian people. For 20 years, the small democratic nation of Estonia flourished. Estonia became the first nation in the world to grant all its linguistic minorities cultural autonomy. During this brief period, the Estonian people further strengthened their strong national consciousness and pride.

In 1939, Estonia's peace and freedom fell victim to Soviet expansionism. The illegal Soviet annexation of Estonia brought extreme hardship. For the last 46 years, the Estonian people have endured widespread deportation, execution, and emigration. Between 1939 and 1949 alone, 350,000 Estonians died, out of a total population of 1.25 million. The United States has never recognized the Soviet occupation of Estonia or its Balic neighbors, Latvia and Lithuania.

I admire the Estonians' spirit and national pride which has persevered despite continuing Soviet attempts to deprive Estonia of its cultural heritage. In the midst of daily oppression by the Soviets, Estonia's resistance movement continues to grow. Estonian citizens recently announced the formation of the Estonian National Independence Party to promote human rights and self-determination of the Estonian Republic.

As the Estonian people mark the 70th anniversary of Estonia's independence, we must never forget their difficult struggle for freedom and self-determination. As the leader of the free world, the United States should reaffirm our commitment to human rights and to the people of Estonia.●

IN RECOGNITION OF THE SIXTH ANNUAL NATIONAL YOUNG LEADERSHIP CONFERENCE

● Mr. CHILES. Mr. President, today I would like to draw to my colleagues attention a special event that will take place in Washington next month. This event is the Sixth National Leadership Conference, cosponsored by the United Jewish Appeal's Young Leadership Cabinet and Young Women's Leadership Cabinet.

The conference, which runs from March 13 through March 15, brings more than 3,000 young Jewish leaders to Washington from 36 States across the country. I am proud to say that approximately 300 Floridians will be participating.

The purpose of the conference is to bring together young Jewish leaders in an environment of discussion and learning. The program educates the participants on major issues that affect the Jewish community and emphasizes the importance of being active in both the Jewish community and the American political process.

I am proud to be one of the speakers at this year's conference. I know that many of my colleagues have also already arranged to participate. New York Gov. Mario Coumo, Israeli Foreign Minister Shimon Peres, Defense Minister Yitzhak Rabin, and former refusenik Natan Shcharansky are some of the guests scheduled to speak.

Experts on United States-Israeli relations, as well as White House and State Department officials, will brief the participants on the state of United States-Israeli relations and the current situation in the Middle East. Other seminars include one on international terrorism and one dealing with America's role in the Persian Gulf.

The conferees are also going to do some rejoicing. A celebration is being held for the 40th anniversary of the birth of Israel and the 50th birthday of the United Jewish Appeal.

Mr. President, the continuing success of the Young Leadership Conference and similar programs is a clear sign of the health and vibrancy of our participatory democracy. I look forward to greeting the conferees next month.●

INAUGURATION OF ROH TAE WOO

● Mr. DASCHLE. Mr. President, the inauguration of Roh Tae Woo marks an important and historic moment in the Republic of Korea. As this government begins a new chapter in Korean political progress, the eyes of the world are upon it.

Certainly, within the United States there is great interest in the new Korean leadership. I am sure that I speak for all of my colleagues in wishing the President and his government well as they commence. For it is our sincere hope that the governments of both of our countries will work to find constructive solutions to the mutual challenges and opportunities which we face.

Having just returned from Korea, I clearly remember my many conversations with both business and governmental leaders with regard to their earnest desire to continue the close relationship with the United States. While we may see our mutual problems from different perspectives, it will only be through that close relationship that we will enable our countries to overcome them.

Certainly the most pressing of these is trade. It is my strong desire to see the major imbalance of trade between Korea and the United States reduced significantly this year. It continues to be the responsibility of both governments to demonstrate not only their willingness but their capability to do so.

From my perspective, there is no more important trade issue than the one involving the prohibition of imported American beef in Korea. Now, with its change in government, Korea can seize upon an opportunity to demonstrate its good faith and determination to reduce the trade deficit this year by removing this long standing prohibition as soon as possible.

For our part, it is important that we avoid the temptation to pass protectionist legislation in retaliation to the current difficulties posed by such prohibitions and quotas in Korea and other countries of the Pacific rim.

While trade legislation may be necessary for many reasons, such legislation must be prospective, not retrospective. It must be aimed at strengthening trade relationships, not tearing them down. Building bridges, not walls.

The people of my State desire cooperation, not confrontation. We want to build friendship with both the people of Korea as well as its government. We seek similarities, not differences. Opportunities, not obstacles.

To President Roh Tae Woo, his government, and his people, let us send our sincere best wishes for a bountiful future of social and economic growth in full partnership with the people of the United States. ●

S. 2062—STATE AND LOCAL GOVERNMENT EXTENSION REAFFIRMATION ACT

● Mr. MELCHER. Mr. President, I am joining my colleague from Oklahoma, DON NICKLES, in cosponsoring S. 2062, legislation which would exempt State and local governments from paying Federal gasoline excise tax on gasoline.

State and local governments have been exempt from this Federal tax and they should remain exempt. We shouldn't expect them to pump their limited dollars into the Federal Treasury just because the Federal Government needs some new schemes to balance its budget. We've already clobbered their strained budgets enough with our cuts in Federal programs, particularly revenue sharing.

Then Congress turns around and says these governments can apply for a refund on a quarterly or annual basis if they can show they used the gasoline for their own exclusive needs. What a bunch of hogwash. That just means more paperwork and that the Federal Government has found a new way to get interest-free loans.

Plus this tax is unfair to the smaller towns—those governments who won't pay over $1,000 in gasoline tax per quarter. These governments have to wait until the end of the year to get a rebate whereas the larger governments who pay more than $1,000 in gasoline tax per quarter can get repaid quarterly.

This tax simply makes no sense and we should repeal it immediately. ●

FEBRUARY 25, 1870: FIRST BLACK SENATOR

● Mr. DOLE. Mr. President, 118 years ago today the Senate voted 48 to 8 to seat Hiram Revels of Mississippi—the first black person ever elected to the U.S. Senate.

An emotional debate preceded the vote on Revels' credentials. Democrats cast doubt on the authority of the reconstruction government of Mississippi, but Republicans charged them with "hiding their anti-Negro sentiments behind a mask of technicalities." Senator Garrett Davis of Kentucky declared the seating of a black man in the Senate a "morbid state of affairs," and denied that freed slaves could even be citizens, let alone serve in the national government. Senator Willard Saulsbury of Maryland denied that the fourteenth amendment was a legitimate part of the Constitution and called the seating of a "negro or mulatto or octoroon in the Senate of the United States" to be a "great and damning outrage." Against such blatantly prejudiced arguments, the majority of the Senate stood firm and voted to seat Hiram Revels.

Revels' term in the Senate lasted only from 1870 to 1871, but during that period he spoke out in defense of freedmen's rights, in favor of enforcement of Federal election laws, and in opposition to segregated schools.

If race had not been an issue, it is doubtful that any challenge would have been raised against Hiram Revels, who possessed strong qualifications and experience. He was a college graduate and an ordained minister in the African Methodist Episcopal Church. He had helped to organize black regiments during the Civil War, served as a chaplain in the Union army, as an alderman from Natchez, MS and as a State senator. After completing his short term in the U.S. Senate, he returned to become secretary of state of Mississippi and president of Alcorn Agricultural College. Of all these accomplishments, however, he will be most remembered for having integrated the U.S. Senate. ●

SIGMUND STROCHLITZ ON ISRAELI-PALESTINIAN CONFLICT

● Mr. DODD. Mr. President, I would like to bring to the attention of the Senate an excellent article from the New London Day that was written by a constituent and close friend of mine, Sigmund Strochlitz.

Ziggy, as he is affectionately known, is an admirable individual who has devoted his life to bridging the gap and differences among peoples. A Holocaust survivor, he has taken an active role in national and international human rights issues.

The plight of the young suffering from the Israeli-Palestinian conflict is a matter which is of great concern to all of us. His article will not resolve the current conflict, but it will make many think about the larger issue of human suffering that has resulted from the instability of the region.

I ask that the article be printed in the RECORD.

The article follows:

[From the New London Day, Feb. 14, 1988]

AN AMERICAN JEW'S FAITH IN ISRAEL'S HUMANITY

(By Sigmund Strochlitz)

I am saddened by the violence and pictures of Arab teenagers throwing rocks and Molotov Cocktails at not much older Israeli soldiers. I am appalled by the shootings and beatings and the psychological damage to young people growing up to hate each other. I am distressed by extremists on both sides gaining the upper hand and even more so by the pronouncements of Arab leaders that they will turn Israel into another Lebanon.

Isn't one Lebanon enough? One hundred thousand people were killed in Lebanon in the last few years and the killing is still going on. Moslem Arabs fighting Christian Arabs, one brother against another, Shiites killing Palestinians and Sunni Moslems fighting the druze community. When will the Arab leaders come to their senses and help build a climate of cooperation and nonconfrontation, and in the process accept Israel's right to exist?

Having said that, let us understand that the problem in Gaza and the West Bank did not begin in 1987. The refusal of the Arab Nations to accept the 1947 decision of the United Nations to partition Palestine into an Israeli and Palestinian state is the root of the problem. Had the Arabs accepted the United Nations plan, there would today be a separate Palestinian state living alongside a Jewish state.

Instead of agreeing to peace with Israel, the Arabs attacked the new nation, urging the Arabs living in Palestine to leave their homes and promising them that they would return with the victorious Arab armies and drive the Jews into the sea. That did not happen. But a refugee problem was created by their own leaders who betrayed them and have kept them in refugee camps for 40 years in order to use them as political pawns.

If that is not enough, let us remember that in 1967, 20 years later, Israel was forced to fight another war, being attacked by five Arab armies and pleading with King Hussein, on the first day of the war, not to enter the fighting. Israel won that war and those territories lost to King Hussein in 1967 are today referred to by the Arabs as occupied territories.

The war in 1967 was fought in June, and Israel was prepared to give back territories for peace. And yet in September of that year, the Arab States met in Khartoum and issued the famous three nos: "No peace, no recognition and no negotiations with Israel." To this day all Arab nations, except Egypt, continue to be unwilling to talk directly with Israel and help relieve the lot of the Palestinian people. Israel is forced to rule over Palestinians largely because these Arab nations have left no other choice.

I have heard many say that Israel should walk away from the occupied territories in the hope that this gesture would produce enough Arab good will for peace. History and geography counsel against such a gamble. There is a great likelihood that Arab extremists would use these territories as a base that would ultimately constitute a threat to Israel's very existence. Israel should therefore not be discouraged or panicked by reaction to the riots.

It is true that the Arabs have come up with a new tactic. Instead of troops and tanks and planes, they are resorting to stones and Molotov Cocktails. Instead of

dispatching trained terrorists to murder Jewish civilians, they are sending young Palestinians against young Israelis. That tactic has put Israel in a position in which anything they do in trying to restore order draws the wrath of the world upon their heads.

Thus, when Israel's troops responded with live ammunition, Israel was condemned. When Israeli authorities sentenced a number of riot leaders to expulsion, Israel was condemned. When the troops shifted from shooting to other methods in order to save lives, Israel was again condemned. I have to ask myself, is there anything Israel can do and not be condemned? Or must Israel not only be good, but also look good at whatever costs. And finally, are we witnessing a repetition of the old scenario that when Jews are being attacked and killed, the world is indifferent. But when Jews defend themselves they are being condemned.

I would like to conclude by quoting a speech delivered by Associate Supreme Court Justice William Brennan during the recent disturbances. Justice Brennan said:

"It may well be Israel and not the United States that provides the best hope for building a jurisprudence that can protect civil liberties against the demand of national security. For it is Israel that has been facing real and serious threats to its security for the last 40 years and seems destined to continue facing such threats.

"The struggle to establish civil liberties against the backdrop of these security threats, while difficult, promises to build bulwarks of liberty that can endure the fears and frenzy of sudden danger guaranteeing that a nation fighting for its survival does not sacrifice these national values that make the fight worthwhile. In this way adversity may yet be the handmaiden of liberty."

For my part I am bound by the modern Jewish imperative that Israel must live. Since I do not daily share its danger, it is not for me to reason how Israel should conduct itself. And yet I have faith in Israel because I have faith in my humanity.

Sigmund Strochlitz, of New London, is a Holocaust survivor who is active in a number of humanitarian causes nationally and internationally.●

INFORMED CONSENT: RHODE ISLAND

● Mr. HUMPHREY. Mr. President, abortion is not a safe, simple procedure to remove the products of conception from a woman's womb. It is a major surgical procedure that involves serious risk and potential consequences to the woman and death to her unborn child. Thousands of women have submitted to this procedure without the full realization of the facts of abortion. My informed consent legislation will ensure that women are given basic information that will enable them to make informed decisions. I ask unanimous consent that a letter from a woman in Rhode Island who supports informed consent be entered into the CONGRESSIONAL RECORD.

The letter follows:

August 19, 1986.

DEAR SENATOR GORDON HUMPHREY, I have been a victim of abortion twice. The first time I did not talk to anyone about it. I was just 17 and I was scared and confused. Some years later, I was still confused in life and I had another abortion. Afterwards, I looked back on the whole scene and I was devastated. When I got pregnant the second time, I couldn't make up my mind. It was harder to have the second one because I had promised God that I would never do that again. I was not in my right mind when I went through with it.

I believe they (the abortion clinics) should tell these girls the facts. That at 7 to 8 weeks old the heart beat is traceable, and there are hands and feet, etc. If the people could and would hear the truth, I'm sure there would be a change of heart. I for one know that if I had been told the truth about the fetus and that I would be supported, I would not have aborted the child.

They also don't warn you about the psychological effects which will occur shortly after and will grow progressively worse with time. I have experienced this and can only try to explain and have you understand the excruciating pain that I and many others have endured. You suffer guilt, a sense of loss, the realization of murder. You feel evil, unforgivable, and you lose whatever self respect you had. Those are just a few of the problems.

I don't think that there are many cases where the woman feels a sense of relief. Maybe initially she does, but it doesn't last, no matter what she thinks, or if she tries to deny it.

Words cannot express the torture that I put myself through, and I am writing to you so you can help to put an end to this violence against babies, women, and society itself. I know there are a lot of girls hurting out there and I hope we can save them and the ones who have not experienced this yet. The good Lord has looked down upon me with Mercy and he has given me new life. I pray that I can do whatever I can to inform people of just how horrible abortion really is.

Sincerely,

JAQUELINE A. MURPHY
Cranston, RI●

BIG BROTHERS/BIG SISTERS APPRECIATION WEEK

● Mr. DOMENICI. Mr. President, as an honorary member of the Board of Directors of Albuquerque Big Brothers/Big Sisters, I would like to take this opportunity to thank the more than 50,000 Big Brothers and Big Sisters nationwide who are doing so much for the youth of this country.

In acknowledging the efforts of these generous, loving individuals, we not only say thank you, but we spread the word far and wide to children who need warmth and guidance, youngsters who need the help of organizations like Big Brothers/Big Sisters.

With a commitment of 4-to-6 hours per week over a year period, and at a cost of only $885 per year, Big Brothers and Big Sisters fill a void in our society caused by increasing numbers of one-parent families. While not all children of single-parent families have need of extra-familial support, an estimated one-fifth of children in one-parent families could use a hand.

And the alternatives to the Big Brothers/Big Sisters program can be so frightening for those youngsters in peril. For example, it costs taxpayers $3,000 for each child entered into the juvenile justice system. It costs from $18,000 to $65,000 a year for institutionalization. The normal troubles of childhood must not be allowed to develop into something so serious.

Possibly our most important accomplishment today will involve more than merely thanking the wonderful people involved in Big Brothers/Big Sisters. I am sure my colleagues will agree that the greatest gift will be if we can expand the present programs to include even more of the estimated 3 million children in need of help.

So far, only 200,000 of these can be identified, and resources are available to help only 100,000 children. This means 100,000 children are on waiting lists, because the supply of volunteers fails to meet the demand.

Volunteers, especially men and members of minority groups are needed. And funds are needed at both the local and national levels. There is a particular need to make certain that parents of girls are aware that this service is available to them and their youngsters.

In the State of New Mexico, the Albuquerque Big Brothers/Big Sisters has been helping children for over 20 years. In Albuquerque alone, some 150 youngsters, most of them between the ages of 8 and 14, are benefiting from the program.

With enrollment increasing at a rate of 20 percent annually, with grants from local sources like the Association of Retarded Citizens, and with the addition of new projects, such as a sexual abuse prevention program, Big Brothers/Big Sisters is making a dramatic, positive impact on the lives of many children in the city of Albuquerque.

Increasingly, concerned parents are seeking the kind of support offered by Big Brothers/Big Sisters. They recognize that a Big Brother or Sister is not a substitute parent, but an ally who can help a child through the challenges of growing up. Nothing could be more important to the youth of our Nation. We see drug abuse and crime on the rise, but we see hope offered by our good friends at Big Brothers/Big Sisters of America.●

AMERITRUST'S COMMUNITY SERVICE

● Mr. GLENN. Mr. President, it is a common misconception that U.S. Government checks are fairly easy to cash. After all, these checks, which include Social Security and pension checks, are backed by the full faith and credit of the U.S. Government and might

very well be the safest instruments in circulation. Unfortunately, it's not quite that simple. Those Americans who choose not to maintain bank accounts must generally pay a substantial fee just to cash their checks. Some senior citizens pay as much as $8.50 or more to cash their Social Security checks.

This situation is intolerable. Last year, my fellow Ohioan, Senator METZENBAUM, tried to amend Federal law to require banks to cash government checks free of charge. I understand he may try again this year. His efforts are a move in the right direction; I would hope that a compromise can be reached this year.

One Ohio bank did not wait for congressional action—to its great credit. The AmeriTrust Development Bank of Cleveland recently introduced a "DirectCheck" program to meet the needs of Social Security and other government beneficiaries. The DirectCheck account is free as long as a customer uses direct deposit and writes a maximum of six checks a month.

I commend AmeriTrust for developing this outstanding program, and submit the following complimentary article from the January 1988 edition of Consumer Reports for the RECORD.

The article follows:

A BETTER WAY TO CASH GOVERNMENT CHECKS

The checks you know won't bounce are U.S. Government checks for Social Security, pensions, and the like. They should be the easiest to cash. But about 20 percent of the adults in the U.S. don't have a bank account and often find it inconvenient and expensive to cash one of Uncle Sam's checks.

Many of those people spend hundreds of dollars each year to cash Government checks at storefront check-cashing outlets, which charge an average of $8.50 to cash a $500 Social Security check.

Congress, concerned about the exorbitant cost of cashing Government checks, proposed last year that banks be required to cash Government checks free. But bankers protested, claiming that cashing checks from nondepositors would invite fraud and forgery. They also feared the logistical problem of coping with a flood of people on the day the Government checks arrive in the mail.

Congress backed off and requested that the General Accounting Office study the problem. The GAO is scheduled to release a report next month.

One obvious solution to the check-cashing problem is to replace checks with electronic funds transfer. The Government has long encouraged Social Security recipients to use direct deposit so their payments will automatically be credited to their bank account. More than 17 million Social Security checks now go to direct-deposit accounts every month—but nearly 20 million others must be physically deposited or cashed. To facilitate direct deposits, basic banking service should be made available to everyone.

AmeriTrust Development Bank of Cleveland, Ohio, already has demonstrated the effectiveness of basic banking with its Direct Check program, introduced last summer.

The bank used to cash Government checks free for noncustomers, but discontinued the service because it cost about $1-million a year to operate. The Direct Check is free as long as the customer uses direct deposit for Government checks and writes only six checks a month. (There's a $1 fee for each additional check.)

To help persuade people who are intimidated by or ignorant of banking to use the new account, AmeriTrust ran a successful consumer-education program. About half the noncustomers who cashed Government checks at the bank eventually opened a basic account. People who don't want to open a Direct Check account can still cash Government checks at AmeriTrust, but they must now pay a $2 fee. That's about half the cost of the cheapest check-cashing service.

We think more banks should follow AmeriTrust's example. More basic, low-cost checking accounts like the Direct Check program would provide a useful service. They might also forestall congressional action that would be less palatable to banks.●

BURLINGTON, VERMONT BUSINESS PEOPLE

● Mr. LEAHY. Mr. President, one of the joys of living in Vermont is that you get to know so many of the people in your home State.

Recently, a newspaper in Vermont ran an excellent article by Ross Sneyd in which 75 of Chittenden County, VT's business people were asked to rate the 11 most influential business people in the Greater Burlington area.

As a native Vermonter and a Burlington resident, I have had the opportunity of knowing these people throughout much of my life. They are all good friends, but even more importantly, they are among the special group of people who make me so proud of Vermont and of my home city of Burlington. I would like to share with my fellow Senators the reason for this pride and I ask that the article be printed in the CONGRESSIONAL RECORD at this point.

The article follows:

TOP GUNS—CHITTENDEN COUNTY'S ELEVEN MOST POWERFUL IN BUSINESS

(By Ross Sneyd)

Natives only need apply.

When Business Monday asked 75 of Chittenden County's most influential business people who were the most powerful among them, every one of the top choices was either born or raised in Vermont.

The survey, coinciding with the first anniversary of the Free Press Business Monday section, shows that the top guns of Greater Burlington come from different backgrounds—financial, construction, retail and real estate.

But they have a lot in common, too.

They own the land where they build their buildings with money they loan each other. They invest the profits from these ventures to make more money, then they insure the things they build and finally they add up profits and start over.

There's more to the story: This is a group of complex, aggressive people who don't particularly need more riches.

Ranked by their colleagues, Burlington's 11 most influential business people, in order of their ranking, are:

Ray Pecor Jr. of Lake Champlain Transportation Co.

Patrick S. Robins of McAuliffe Inc.

Dudley S. Davis of Merchants Bank.

Angelo Pizzagalli of Pizzagalli Construction Co.

Luther "Fred" Hackett of Hackett, Valine & McDonald.

Harlan C. Sylvester of E.F. Hutton.

Antonio Pomerleau of the Pomerleau Agency.

Robert E. Boardman of Hickock & Boardman Inc.

Ernest Pomerleau of the Pomerleau Agency.

Nancy Lang of Lang Associates Inc.

David Coates of Peat Marwick Main & Co.

All 11 run thriving, profitable companies. All 11 also say making money was not the only reason for their success. Each serves in a variety of other capacities, too, as on boards of directors of area banks, non-profit agencies and economic development companies.

Beyond the impressive titles, there is a common intangible quality among the Burlington 11: influence.

When they see a problem, they pick up a telephone and set in motion the process for solving it. They see an unmet need and they pick up a checkbook and pay to fill it. They see an opportunity and they organize the right people to go after it.

Make no mistake, though. When a job needs doing in Greater Burlington, be it for business or civic purposes, others in the community most often turn to this elite group for help, according to their responses to the Business Monday survey.

These then, are the "top guns" of Greater Burlington.

1. RAY PECOR JR.

Almost 10 years ago, when Greater Burlington's business-people were asked by the Free Press who was a likely "up-and-comer," a person apt to be among Chittendon County's most powerful in a decade, Ray Pecor Jr. was their man.

The prediction, it turns out, was a pretty good one.

Pecor is the top choice of his peers, a man whose counsel is sought by business.

"Hardly a deal goes down that somebody doesn't call him," said McAuliffe Inc. President Patrick S. Robins, one of his long-time friends. "He's just a commonsense, upbeat kind of guy. I'd do a million-dollar deal with Ray on a handshake."

Pecor himself has been in the middle of several key business deals in the last decade, among them the renovation of Champlain Mill in Winooski, the development of Champlain Cable Corp. in Colchester and, most recently, Courthouse Plaza in downtown.

The five-floor plaza, now being readied for its grand opening at Main Street and South Winooski Avenue, has cemented Pecor's position of prestige in Burlington.

The 70,000-square-foot structure, standing in what had been for 15 years an empty lot, is a testament to the 48-year-old businessman's faith in downtown and the city's ability to hold its own against developing suburbs.

After years of false starts by others seeking to develop the site, Pecor took over what was known as the Strong Block, got financing for his project and signed up the area's largest law firm to occupy two floors before the first spade of dirt was turned.

"Ray's a bit of a risk-taker and he hung it out there on this project," said Peter Clavelle, Burlington's community and economic development director. "This building, whether you like it or not, has this statement: It sets a standard for future projects in terms of quality."

The project also tells a great deal about Ray Pecor, the man. "Ray did that project not because there's great short-term profit in it, but because it needed to be done," Clavelle said.

Pecor himself is the first to admit that he doesn't need to build another building to make money. He has that. He is somewhat hard-pressed, though, to explain exactly why he has put so much money into Courthouse Plaza.

He likened the effort to the work he put into renovation of the Champlain Mill, a landmark that had stood idle for years in downtown Winooski.

"I see it (Courthouse Plaza) a lot like the mill," he said, gazing out over Burlington harbor from his Lake Champlain Transportation office on the King Street Dock. "I drove past the mill for years and years and said, 'Somebody should do it.' Nobody did it, so I did it."

Pecor views the Courthouse Plaza and Champlain Mill projects as the responsibility of business leaders such as himself.

"I think a lot of people live here because they love it. It's more than just a place to work," he said. "I'd like to think our role is to make sure the community and the country are as viable as possible."

2. PATRICK S. ROBINS

In Burlington, the Church Street Marketplace and Pat Robins are, more often than not, spoken in the same breath.

As much as anyone, Robins is seen as the guiding force behind the pedestrian mall, an urban revitalization that has come to symbolize a resurgent Burlington.

For years, Robins preached the gospel of creating a downtown centerpiece through the renovation of Church Street. In 1981, his efforts and those of a good number of other people, finally were realized when the Marketplace opened.

The shopping district has succeeded, in large part, because it has been a true example of cooperation between private business and the public sector.

"Church Street I regard as a most successful combined (public-private development) effort," said Luther "Fred" Hackett, president of Hackett, Valine & McDonald and another long-time Burlington booster. "Pat Robins was really the sparkplug behind it."

Robins remains one of the most visible business leaders promoting downtown Burlington. He heads the quasi-public commission that operates and administers the pedestrian mall and lately has been throwing his weight behind improving downtown parking.

At various times, he also has served on the boards of the city's Street Commission, the Water Pollution Control Commission and the Greater Burlington Industrial Corp.

Robins appears to move effortlessly between the world of business and government—he once headed the state Hospital Data Council, for instance—and is looked to as a spokesman for the interests of downtown business people.

Sometimes he is successful in bringing understanding between the two sides because he has the ear of both. With avowed socialist Mayor Bernard Sanders in office and a suspicious business community questioning his every move, that can be invaluable.

For example, members of the city administration credit Robins with lining up support in the business community for a gross receipts tax in 1986, a 1 percent levy on restaurant receipts and a 2 percent tax on hotel revenues that failed four years earlier.

"He's got a lot of credibility and he's articulate," said Peter Clavelle, Burlington's community and economic development director. "When there are issues that involve city business and community relations, Pat is identified as a leader, a spokesperson."

It is a role in which he clearly revels. Although McAuliffe, the state's largest office products supplier, is the base from which Robins works, it is clear his heart is in the various public projects in which he gets involved.

"I think it's a great privilege to do all this stuff," he said. "I don't see myself as part of the 'business community.' . . . I'm interested in public policy issues."

He says he is concerned that the vitality of downtown is not impenetrable and worries out loud about the threat of Maple Tree Place, the Pyramid Co. mall project proposed for Williston.

"While I think what we've got is good, I don't think it's invincible," he said. "It's fragile . . . I think Pyramid (a partner in the mall proposed for Taft Corners in Williston) is a tremendous threat. Ben Frank (another partner in the project) is trying to lull everybody to sleep."

If that happens, Pat Robins surely will be standing by, alarm clock in hand.

3. DUDLEY DAVIS

By national standards, Merchants Bank in Burlington is small.

It has assets of nearly $511 million—not much when compared with the $31 billion of a regional institution like the Bank of Boston.

To owners of small businesses in Vermont, however, Merchants is the equivalent of a Chemical Bank or a Citibank. For it is to Merchants that many enterprising businesspeople turn when they are looking for resources to transform their new ideas into going concerns.

Merchants has been listed as the top "preferred lender bank" in the country by the Small Business Administration because it has written more SBA loans than any of its peers, both large and small.

As president—and conscience—of Merchants Bank, it is Dudley Davis who makes it possible for many of those entrepreneurs to put their ideas to work. He believes it is his responsiblity to support entrepreneurs who show promise.

People trying to establish a business recognize that attitude at Merchants and flock there, said Angelo Pizzagalli of Pizzagalli Construction Co. and a member of the board of directors of rival Howard Bancorp.

"The bank under Dudley's leadership makes things happen with innovative loans if you're just getting started," Pizzagalli said. "People kind of think that the Merchants Bank is the place to make things happen."

One of the last of the homegrown bankers still running a Burlington bank, Davis knows the city and its institutions intimately. While astute when it comes to examining the financial implications of a deal, friends and associates say he also has an uncanny ability to judge accurately the potential success of individual business people.

Davis has a "great sense for up-and-coming entrepreneurs," said Patrick S. Robins of McAuliffe Inc. and a member of Merchants' board of directors.

Michael D. Flynn of Gallagher Flynn & Co. said he believes Davis runs his bank much in the style of the small businesses he supports. "He has vividly demonstrated that entrepreneurship and banking aren't mutually incompatible," Flynn said.

Davis downplays his own role in the business community. "Sometimes I've been able to shed some light," he said in characteristic understatement before turning the conversation back to one of his favorite topics: small business.

"I think it's where the greatest opportunities are for us to exercise our expertise," he said of the Merchants' role. "I don't envision Vermont as a Route 128 (the famous strip of high-tech industries outside Boston) in the next 10 years. Small business, I feel, is where it's at."

4. ANGELO PIZZAGALLI

Angelo Pizzagalli—and the construction firm he heads—is everywhere.

Pizzagalli Construction Co. is the firm behind buildings on the University of Vermont campus, schools across the state and government offices in Montpelier.

His firm has built International Business Machines Corp. plants in Essex Junction and places like Poughkeepsie, N.Y., and sewer and water projects from Texas to the Virgin Islands. Angelo Pizzagalli is the man who occupies seats on the UVM board of trustees, the Howard Bancorp board and the Vermont Industrial Development Authority, among others.

Begun in 1958 by brothers Angelo and Remo Pizzagalli and their dad, Angelo Sr., the firm has exploded in size in three decades, ranking in 1985 as the 105th largest construction firm in the country. The success of the two brothers—Angelo Sr. died shortly after the firm's start—is one of Vermont's most impressive business stories.

"Remo and Angelo Pizzagalli are at the top of my list," said Ray Pecor Jr. when asked whom he views as the top business leader in Chittenden County. "They started out laying bricks, now look at them. They've just been spectacular. They've been great role models in the business community." Brother James Pizzagalli is also an integral part of the business.

Some business leaders, such as Pecor, view the brothers as a matched set, saying it is impossible to determine who holds the most influence. The majority in the Free Press survey, however, while praising Remo, say it is Angelo who is the force to be reckoned with in the business community.

Angel has served in several capacities on a wide variety of local, state and regional organizations, something for which he has received both praise and criticism.

"Angelo was a hard worker for GBIC," said C. Harry Behney, executive director of the Greater Burlington Industrial Corp. "He headed the sites committee and was instrumental in helping us locate some businesses here. He's a very thoughtful individual and makes a great contribution."

UVM President Lattie Coor said Pizzagalli has an unmatched ability to get things done. "Angelo Pizzagalli has one of the most impressive capacities I have seen to size up problems, understand the nuances, formulate a solution and also make a plan to reach that solution."

The price of success has, at least once, required Pizzagalli to endure criticism that he has used his positions on various boards for personal gain.

In 1979 he was accused of a conflict of interest when his firm won a construction

contract for expansion of the Medical Center Hospital of Vermont. He served in several volunteer capacities with the hospital at the time.

"In some instances it almost works against you," he said. "With all the flak we got relative to doing the hospital project, it would have been a lot easier if I had not been associated with the hospital."

Nonetheless, he said, he and other business leaders will continue to give their time to nonprofit and charitable organizations.

"People feel that you can do some good by being on the board of the hospital, the university or United Way," he said. "I honestly think that the people who serve on those boards don't do it for profit or gain."

5. LUTHER F. HACKETT

Luther "Fred" Hackett is a man of two professions.

He makes his livelihood in the insurance business, heading up the successful Hackett, Valine & McDonald in South Burlington.

He also is passionate about politics, an ardent Republican who served in the Legislature and mounted an unsuccessful campaign for governor in 1972.

Those two bases provide the Burlington native with a powerful stage, but at first blush it would appear that the influence of Hackett is on the wane—after all, Democrat Gov. Madeleine M. Kunin is in the Statehouse and an avowed socialist, Mayor Bernard Sanders, rules City Hall.

But Hackett is not to be underestimated. He chairs the Howard Bancorp board of directors and the Vermont Electric Power Co. He also serves on the boards of Central Vermont Public Service Corp., New England Telephone and Central Vermont Railway. He wields considerable influence.

In the Business Monday survey on Chittenden County's top business leaders, Hackett's name turned up on the lists of business-people of every stripe. No matter their political point of view, they respect Hackett.

Accountant Michael D. Flynn of Gallagher, Flynn & Co. said Hackett is one of the powerful who knows how to get things done—regardless of who is in office. Hackett is "in a class by himself," Flynn said. "If anything, his influence within the business community has been enhanced by the Democrats' political successes."

University of Vermont President Lattie Coor said Hackett's business expertise places him among the state's top leaders.

"Fred has considerable understanding of the whole web of this community, from the dark days in the mid '50s . . . through these periods of building a base for our current community," Coor said.

It is a role Hackett clearly relishes, but insists he shares with others.

"I like to do things," Hackett said. "I put in a lot of hours in the course of a week to do the things I do. All (business leaders) find extra time to do a lot of these things."

Despite his obvious taste for politics and the rough-and-tumble world of public policy debate, Hackett said success often lies in organizing behind the scenes to accomplish goals.

"I think folks get interested in things and they just try to sell their idea," he said. "Then they get a group together and do it."

So what has him interested lately? Burlington's Lake Champlain waterfront. Although he does not have any firm ideas for the waterfront, he feels very strongly about the need to develop it. In his position on the board of a major landholder in the area, Central Vermont Railway, his opinion carries clout.

"The waterfront is a great tragedy in my view," he said. "I think the development of that waterfront can only be done effectively by a major, private developer who is willing to be responsive to public needs."

6. HARLAN SYLVESTER

When E.F. Hutton's Harlan Sylvester speaks, Vermont's Gov. Madeleine M. Kunin listens.

So do a lot of other people.

And generally, when Sylvester does voice a postion, it is thoughtful, and thorough. That's his style: He is a man of few, well-chosen words, usually spoken beyond the glare of media attention.

Sylvester is the quintessential behind-the-scenes operator. As chairman of the governor's Council of Economic Advisers, he has a lot of contacts and keeps close track of Vermont's economic fortunes.

Business colleagues see Sylvester's style as an effective one for dealing with the problems confronting the state. "He makes things happen behind the scenes," said Greater Burlington Industrial Corp. executive director C. Harry Behney.

"Harlan tends to know more about the whole picture and is willing to weigh in and do something about it, but usually in the background," said Lattie Coor, president of the University of Vermont.

Sylvester speaks guardedly when discussing his role in state government. He is keenly aware that he serves at the pleasure of the governor and does not want to give the appearance of speaking for her. But there can be no mistaking his influence when he drops by the Pavilion Office Building in Montpelier.

Sylvester and others in business were opposed to last year's plant-closing legislation and made that known to Kunin. A compromise was worked out where the legislation was tabled pending congressional action on the issue.

Another key area where the stockbroker is sure to have influence is in the cleanup of Lake Champlain, an issue with serious business, as well as environmental consequences. "When it's written in the New York Times that there's sewage going into Lake Champlain, what does that do to our tourism?" he asked.

He knows the answer and believes that it's time action is taken. He supports cooperative efforts between Burlington and that state to spend part of Vermont's budget surplus on sewage treatment facilities. He doesn't say what role he played in hammering out such a solution, but he certainly endorses it.

"We've got to have these kind of relations going on regularly, not sporadically," he said.

Making that kind of contribution is something Sylvester grew up with and he views it as a responsibility of a businessman. He takes pleasure in recounting tales of traveling with his father from their St. Albans home to Montpelier so his dad could serve in the Legislature and he could be a legislative page. His current duties, he said, are an outgrowth of those experiences.

"If you're going to make a living in a community, you ought to put something back into it," he said. "I enjoy community activity. You get a lot of satisfaction out of a job well done."

7. ANTONIO POMERLEAU

9. ERNEST POMERLEAU

The Follett House, the stately Greek revival mansion overlooking Lake Champlain, probably says as much about the Pomerleau family as anything can.

For years the historic structure stood decaying at the entrance to downtown while plans to renovate came and went.

Finally, Antonio and Ernest Pomerleau took on the project and through a complicated deal to relocate the Veterans of Foreign Wars and get historic preservation funds, an agreement was worked out.

Then tragedy struck when an arsonist's flames spread through the building on the eve of the contract signing to transfer ownership to the Pomerleau Agency.

Father and son were set back, but not defeated. It took more time and more money, but the Follett House is back to its glory, a beautiful building in which the Pomerleau Agency's real estate operation is housed.

The story of the Follett House can be retold in various forms by Antonio about many of the projects he has spearheaded. The deals are often complicated, always profitable, and usually prominent in the community.

Ernest Pomerleau is following in his father's tradition as president of the real estate division of the Pomerleau Agency. In separate interviews, they both explained their business philosophy—even using the same words. "I think a businessman's got to give, not just take."

Both men have been and still are involved in a wide variety of activities in Burlington, giving them a strong platform from which to shape events. Perhaps the most visible for Antonio were his 17 years as chairman of Burlington's Police Commission.

Ernest, too, is taking an active role, serving on the Lake Champlain Regional Chamber of Commerce and the Downtown Burlington Development Association.

Ernest admits that involvement in the community makes good business sense, but says it also makes the city a better place to live for everyone.

"Doing these kinds of things is less altruistic. We have a huge amount of investment downtown. I can't afford to stand idly by," he said. "But it's really sincere. The Flynn (Theatre renovation) never would have happened without business involvement. You do get caught up in it."

That is an attitude Antonio said he has repeated often and he is happy to see that his son is involved in the family business. "I guess if a father had to write a book saying what he wanted his son to be, Ernie is it," the elder Pomerleau said.

8. ROBERT E. BOARDMAN

At age 55, Robert E. Boardman is studying for his master's of business administration.

His instruction isn't taking place on any campuses lush with ivy. There's no books and no classrooms. Instead, he takes his classes in corporate boardrooms in Montpelier and Burlington, Stowe and South Burlington.

For a start, there is National Life Insurance Co., Trinity College, Fanny Allen Hospital, Mount Mansfield Corp., Green Mountain Power Corp. and Bank-Vermont Corp. where he is chairman. There have been and still are others.

"All of these boards have unique problems and all of them have some common problems," he said. "I consider it getting my MBA without the formal training."

Those positions, combined with the work at his own company, Hickock & Boardman Inc., give him a broad view of the business and financial world in Vermont and keep

him in demand for other boards and commissions.

It is that broad background that draws other business leaders to Boardman, said Richard Fricke, interim president of Bank-Vermont Corp. and colleague of Boardman's on several boards.

"It requires a very broad background of experience in order to make astute suggestions and comments in a wide variety of business fields, which Bob does," Fricke said.

Boardman believes being able to interact effectively with others is the key to his success. He traces his community involvement back to his participation in Jaycees in the late 1950s. He said he encourages young business people to get involved in such an organization because it teaches cooperation and contributes to the community.

"Jaycees was inordinately helpful to me," he said. "We learned what it was to get things done. That opportunity still exists with United Way and others."

10. NANCY LANG

"Hard-working" are the words most often used to describe Nancy Lang.

She got into the real estate business in 1961 working for Hickock & Boardman in Burlington. In 1968, she became the first person in Vermont to sell more than $1 million in real estate.

The following year she opened her own firm with a paltry stake of $15,000. She has parlayed that small investment into a thriving business which employs 30 associates and is one of the leaders of the area's competitive real estate pack.

Through that success she has gained influence and become perhaps the most powerful female business leader in Greater Burlington. Integrity and hard work are hallmarks of Nancy Lang, respondents to the Business Monday survey said when naming her as a top business leader.

"Nancy has done a hell of a job," said Antonio Pomerleau, a long-time real estate leader in Burlington. "The real success of business is timing and judgment. I remember when she became successful in real estate. She did it through a lot of hard work."

Lang also serves on the boards of a variety of institutions, including Bank-Vermont Corp. and United Way.

Her colleagues on those boards have come to value her skills—even if she didn't come to Vermont until she was in high school, Lang joked.

"I think they're trying to adopt me and I'm willing," she said of her colleagues. "After all I married a Vermonter."

Lang said she picks up just as much if not more from her board colleagues. "It keeps you looking in both directions and develops important skills," she said. "You can never do it alone. It's always a team does it. The thing a leader has to do is choose the right team."

11. DAVID COATES

David Coates is in a perfect spot to observe the comings and goings of Burlington's business people.

From his fourth floor corner office at the top of Church Street, he can watch the action on the Marketplace.

He also sees first-hand the business activity of many of Greater Burlington's business leaders in the hallways outside that office because many of them are clients of Peat Marwick Main & Co., the accounting firm which recently bought P.F. Jurgs & Co.

Coates, the firm's managing partner, is a quiet, soft-spoken man, but his opinions carry weight in Greater Burlington's business community. He does not carry a high public profile—"it's sometimes easier to to get things done not in a large public meeting," he said—but he does behind the scenes.

Nancy Lang of Lang Associates, who serves on the Bank-Vermont Corp. board with Coates, said he has "the ear of many. He is quiet, but always there to help."

In addition to his seat on the board of Bank-Vermont, Coates has also served United Way, Trinity College and a variety of other institutions. His advice and counsel is sought after by for-profits and non-profits alike because of his knowledge of business in general and Greater Burlington in particular.

Business leaders ask Coates for advice on mergers, acquisitions and personnel in addition to typical accounting chores such as tax planning, said Patrick S. Robins of McAuliffe Inc.

Coates said he believes it is best to step back and see the whole landscape when conducting business.

"It's more than just a single focus," he said. "The role of the business community is much more than to take of your business. If we are successful, not only does our business prosper, the area prospers."●

PROBLEMS WITH AN OIL IMPORT FEE

● Mr. GLENN. Mr. President, a number of the candidates running for President have advocated imposing a tariff on imported oil as a way of raising revenue to reduce the budget deficit. I believe it's a terrible idea.

First, it is a very inefficient way to raise revenue since an increase in the price of imported oil would allow domestic producers to raise their prices as well. Since oil remains a critical raw material, the American consumers should expect to see price increases across the board, not only for gasoline and home heating oil but also petrochemicals and other oil-based products. Congress should also consider the impact of an oil import fee on our neighbors to the North and South; Mexico especially relies on oil exports to stimulate growth domestically as well as service their debts to American banks.

The Akron Beacon Journal ran an editorial on February 15, 1988, that made these points especially well. I ask that portions of it be included in the RECORD.

The article follows:

MIRAGE OF THE OIL IMPORT FEE

New Hampshire voters are hearing much about an oil-import fee as primary day approaches.

Democratic candidates Richard Gephardt, Paul Simon, Gary Hart and Jesse Jackson all support a tax on imported oil. Republican Robert Dole has said he wouldn't rule out the idea as part of a plan to reduce the federal budget deficit.

From a Democrat or a Republican, an oil-import fee is bad policy. A $5-per-barrel tax on imported oil would raise about $8 billion a year, according to the congressional Joint Committee on Taxation. But the country would receive little for the price. If tax increases are needed—and they are, along with spending cuts—there are far better ways to raise revenue.

An oil-import fee would amount to an egregious subsidy for the domestic oil industry. Taxing foreign oil would lift the floor price for domestic producers. They'd receive a huge windfall, based not on better business practices but, in effect, because of a tax placed on consumers.

Gephardt and others argue that an oil-import fee would make good energy policy. "We don't want to be dependent on OPEC oil," he has said.

To be sure, oil conservation is wise, but an import fee would miss the mark. For starters, the United States receives very little oil from Arab nations; Saudi Arabia was the only Arab nation among this country's top 10 oil importers last year. An import fee would be a slap to oil-producing friends and allies such as Canada, Mexico and Great Britain. Indeed, it would be illegal under the proposed U.S.-Canadian trade agreement, not to mention a possible violation of international trade rules.

The complications, however, hardly stop there. Implementing an import fee would be a headache. The burden of the tax would fall most heavily on the Midwest and Northeast. Lawmakers from those areas could be expected to seek exemptions, and they would likely get them, diminishing the import fee as a tool for deficit reduction.●

DR. CARL RAYMOND RENG

● Mr. PRYOR. Mr. President, Arkansans were saddened last week by the death of Dr. Carl Raymond Reng, former president of Arkansas State University. I join the other members of the Arkansas congressional delegation and the entire State in grieving the loss of this fine man and remembering his many contributions to higher education in Arkansas.

Dr. Reng became President of ASU 37 years ago when it was Arkansas State College. He was best known for spearheading the drive in 1967 that gained the institution university status—his long sought after dream. In essence, this achievement was a reflection of his own enthusiasm and leadership that led to unprecedented growth for the institution.

During his 24-year tenure at ASU, Dr. Reng had a superb record in construction progress and academic achievements. At the time of his retirement, the ASU Herald reported that every building on the campus had been either erected or renovated during his tenure. Moreover, the number of baccalaureate degree programs more than tripled from 21 to 69. Also, the number of faculty members holding doctorate degrees was only 11 at the time he came to Jonesboro in 1951, and had jumped to 166 by the time he retired.

I strongly believe that our Nation's unmatched level of prosperity and intellectual advancement has been made possible by the outstanding education provided our citizens by American colleges, universities, and administrators.

Indeed, a source of America's success can be found in these men and women who dedicate their lives to enriching the minds of our youth—the future of this great country. Mr. President, Dr. Carl Raymond Reng was indeed one of these dedicated individuals.

I count myself fortunate to have known him as a good friend. I shared his pride in his great accomplishments and I deeply mourn his passing. I join my fellow Arkansans in paying tribute to a man who has left lessons, impressions, and marks for his successors that will long be remembered.●

HOMELESSNESS IN AMERICA

● Mr. CHILES. Mr. President, the President said in his budget that we are increasing assistance to the homeless in America.

A look at his budget shows otherwise.

The budget sent to the Hill claims a 4-percent increase in homeless funding over last year's levels.

A closer look shows, however, that the administration actually recommends cuts of 52 percent, or $414.8 million, from last year's program levels.

This recommendation is particularly disturbing in light of recent disclosures that even current food resources for the homeless, such as surplus food commodities and the temporary emergency food assistance programs, are closing down.

Homeless assistance should remain a national priority and I've asked Budget Director James Miller to show how the administration can claim a 4-percent increase in homeless funding when our analysis shows a 52-percent decrease.

Mr. President, I ask to include a letter to Mr. Miller, a table showing the funding levels, and the President's response to a question at a press conference last night about the same issue.

The material follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, February 25, 1988.

Dr. JAMES C. MILLER,
Director, Office of Management and Budget, Washington, DC.

DEAR JIM: On page 2b-13 of the President's budget, the Administration proposes $0.4 billion in funding for Federal programs or activities specifically targeted to homeless individuals. The President claims that "this funding level is four percent above the 1988 level of funding for homeless provided by Congress."

Senate Budget Committee staff contacted analysts at OMB to discuss the specific program levels comprising the $0.4 billion in 1989 funding. Upon further review, the numbers provided by OMB appear insufficient and incomplete to meet the claim that the President's budget included a four percent increase over 1988 funding levels.

Our analysis indicates that the President's proposed budget for FY 89 would cut total funding for the homeless from $791.9 million in FY 88 to $377.1 million in FY 89; that cut of $414.8 million would constitute a 52 percent drop in the current program level.

A copy of the Committee Staff's comparable homeless funding analysis is enclosed. Please review this document and advise me of any discrepancies. Thank you for attention to this concern.

Sincerely,

LAWTON CHILES.

THE PRESIDENT'S HOMELESS PROPOSAL

On page 2b-13 of the President's 1989 Budget proposal, it is claimed that the President funds $0.4 billion for programs and activities for homeless individuals, a claimed 4 percent increase. When actual 1988 total program and new funding levels are compared to the comparable figures in the President's 1989 budget submission, a different story emerges. The President is actually proposing a cut of $414.8 million, or 52 percent, from the 1988 program level. The President also proposes a cut of $114.8 million, or 37 percent, in new funding from 1988.

HOMELESS FUNDING

[Budget authority in millions]

	1988 actual		1989 President's budget	
	Total program	New funding	Total program	New funding
HOUSING				
Single room occupancy	$35.0	($0.0)	$0.0	($0.0)
Supplemental	15.0	(0.0)	0.0	(0.0)
Transitional/supportive	[1] 144.3	[1] (64.3)	75.0	(75.0)
Section 202 setaside	141.5	(0.0)	50.0	(0.0)
Emergency shelter grants	58.0	(8.0)	0.0	(0.0)
Subtotal budget authority	393.8	(72.3)	125.0	(75.0)
EDUCATION AND JOB TRAINING				
JTPA	9.6	(0.0)	0.0	(0.0)
Education for homeless children	8.3	(0.0)	0.0	(0.0)
Literacy for homeless adults	14.1	(0.0)	0.0	(0.0)
FSA—Services for the homeless	25.5	(0.0)	0.0	(0.0)
Runaway homeless youth programs	26.1	(26.1)	26.1	(0.0)
Subtotal budget authority	83.6	(26.1)	26.1	(0.0)
HEALTH				
Homeless Health	60.0	(14.0)	15.0	(15.0)
Homeless Mental Health [NIMH]	9.3	(0.0)	4.7	(0.0)
Homeless Alcoholism [NIAAA]	9.2	(0.0)	4.6	(0.0)
Community Supp't Prog Demos	0.0	(0.0)	13.8	(13.8)
Homeless Mental Health Block Grant [ADAMHA]	0.0	(0.0)	14.3	(14.3)
Veterans Administration	32.0	(0.0)	13.0	(0.0)
Subtotal budget authority	110.5	(14.0)	65.4	(43.1)
MISCELLANEOUS				
FEMA	124.0	(124.0)	80.0	(80.0)
USDA Food Stamps	[2] 77.0	[2] (77.0)	77.0	(0.0)
Interagency Council	[1] 0.7	[1] (0.7)	1.2	(1.2)
DOD Assistance	2.3	(0.0)	2.4	(0.0)
Subtotal budget authority	204.0	(201.7)	160.6	(81.2)
Total budget authority	791.9	(314.1)	377.1	(199.3)

[1] In 1988, the Interagency Counci is funded by a $750,000 transfer from the transitional housing program.

[2] Projected one-year funding resulting from statutory "entitlement" changes first implemented in 1988.

Note.—Funds in parentheses indicate new funding provided for a program, and are included in the total program levels.

[From the Washington Post, Feb. 25, 1988]

HELPING THE HOMELESS

The budget that you have proposed to Congress would cut, would eliminate three housing programs for the homeless. It would make deep cuts in an emergency food program, and it would end a job-training program for the homeless. Do you believe that the problem of the homeless is less pressing now than just a year ago when you signed legislation from Congress to create these programs?

No, but I do know that we're doing a great many things, and we also are keeping track of the extent to which the private sector is joining in and helping on this. And this budget is the result of long, long weeks of negotiation, with the Democrats and ourselves, and I think that we're meeting the problems.

Again, I also have to say that sometimes our budget and programs can reflect another program we've had going which is a management program, and we have had a team for a considerable period of time now that had been actually investigating the management practices of government programs as compared to the way they're done in the private sector. And there are millions and millions of dollars that are being saved so that something that maybe looks smaller does not mean that the people in need are going to get less. It means that we are able to provide that with less administrative overhead.

When I came here from a governorship, as a governor I had seen federal programs administered in our state in which it was costing the federal government $2 for every $1 that reached a needy person. This is something we've been trying to change, and we've made some progress in it.●

BIG BROTHERS/BIG SISTERS APPRECIATION WEEK

● Mr. DODD. Mr. President, today I am recognizing Big Brothers/Big Sisters Week, which is being observed nationwide the week of February 21-27, 1988. Over 50,000 volunteer men and women are currently providing 1 to 1 informal friendship to children, ages of 6 and 17, who are primarily from single parent homes.

For over 80 years, Big Brothers and Big Sisters have helped youngsters through the trials and tribulations of growing up by giving them supportive, mature friendship and informal guidance. Studies have shown that these "special" relationships are highly effective in preventing juvenile delinquency and emotional problems and in preparing children for adulthood.

I commend the nine local Big Brother/Big Sister organizations in my home State of Connecticut: Bradford, Bridgeport, Enfield, Hartford, New Britain, New Haven, New London, Waterbury and Willingford. Along with the 1 to 1 contact the volunteers have with the participants, there are various outings throughout the year, with an annual Halloween and Christmas party.

I appreciate the time and work to which the Big Brother/Big Sister volunteers have committed themselves. I am certain that the young people with whom they work are even more grateful for their dedication. I applaud them all.●

TRIBUTE TO JACLYN ROBERSON, POSTER CONTEST WINNER FOR A DRUG-FREE AMERICA

● Mr. BINGAMAN. Mr. President, I would like to take this opportunity to honor a very special young lady from my State, Miss Jaclyn Roberson. Jaclyn is a first grade student at Tomasita Elementary School in Albuquerque, NM. Recently, she was named 1 of 2 winners in a nationwide poster contest sponsored by the White House Conference for a Drug-Free America.

The White House Conference for a Drug-Free America was established under the Omnibus Drug Abuse Prevention Act passed by the Congress and signed into law in October 1986. It is very gratifying to see the positive effects this legislation is beginning to have in the lives of American youth across the country. As one of its duties, the conference established 10 committees that have traveled across the country working with concerned citizens to establish community-based drug abuse prevention programs. In preparation for the arrival of the committee, the public schools in each host city sponsored a city-wide poster contest.

The principal of Tomasita Elementary School, Ms. Terry Toman, and Jaclyn's first grade teacher, Ms. Marietta Ravenscraft, should be commended for their success in encouraging their students to participate in the poster contest and to discuss the dangers of drug abuse in the classroom. Ms. Ravenscraft and her students spent a considerable amount of time discussing choices, decisionmaking, and peer pressure. She asked her students to make posters that reflect the many alternatives to drug use. The result was Jaclyn's winning poster, which depicts two children facing each other with large hearts drawn on their chests. The caption below reads, "No to Drugs, Yes to Talking to a Friend."

Jaclyn will be honored in Washington, DC, during this city's week-long Conference for a Drug-Free America, beginning February 28, 1988. Nearly 1,000 people are expected to participate. Jaclyn will be accompanied to the conference by her parents, Patti and Brent Roberson, and her sister. Mr. and Mrs. Roberson also should be congratulated for their important role in their daughter's wonderful achievement. Mr. Vic Scherzinger of Cottonwood Printing in Albuquerque also deserves praise. He donated his time, money, and talent to print 2,000 copies of Jaclyn's poster, which will be distributed at the conference.

I congratulate Jaclyn, her family, and teachers, and I wish continued success to the White House Conference for a Drug-Free America. The dedication and resolve of all individuals involved in the conference and programs like it across the Nation will go far in our battle against drug abuse.●

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Senator from California, who is presently the acting leader on the other side of the aisle, as to whether or not the following calendar orders on the Executive Calendar have been cleared for action: Calendar Orders 533, 534, 535, 536, 537, 538, and 539, all of which appear on page 4 of the Executive Calendar.

Mr. WILSON. They have, Mr. President.

Mr. BYRD. Mr. President, I thank the Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar orders on the Executive Calendar, that they be considered en bloc, agreed to en bloc, that the motions to reconsider en bloc, be laid on the table, that the President be immediately notified of the confirmation of the nominees, and that the Senate, which went into executive session, resume legislative business.

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

The nominations considered and confirmed, en bloc, are as follows:

THE JUDICIARY

Malcolm J. Howard, of North Carolina, to be U.S. district judge for the eastern district of North Carolina.

Stephen M. Reasoner, of Arkansas, to be U.S. district judge for the eastern district of Arkansas.

Rudy Lozano, of Indiana, to be U.S. district judge for the northern district of Indiana.

DEPARTMENT OF JUSTICE

John E. Fryatt, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years.

Patrick J. Fiedler, of Wisconsin, to be U.S. attorney for the western district of Wisconsin for the term of 4 years.

Edgar W. Ennis, Jr., of Georgia, to be U.S. attorney for the middle district of Georgia for the term of 4 years.

Charles A. Banks, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years.

LEGISLATIVE SESSION

RAIL SAFETY IMPROVEMENT ACT

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I ask the Chair to lay before the Senate a message from the House on S. 1539.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the House insist upon its amendments to the bill (S. 1539) entitled "An Act to amend the Federal Railroad Safety Act of 1970 and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Thomas A. Luken, Mr. Slattery, Mr. Lent, and Mr. Whittaker be the managers of the conference on the part of the House.

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I move that the Senate disagree to the amendments of the House, agree to the conference requested by the House on the disagreeing votes between the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair (Mr. CONRAD) appointed Mr. HOLLINGS, Mr. EXON, Mr. ADAMS, Mr. DANFORTH, and Mr. KASTEN conferees on the part of the Senate.

NATIONAL AGRICULTURE DAY

Mr. BYRD. Mr. President on behalf of Senator LEAHY and others, I ask unanimous consent to introduce and place on the calendar a joint resolution proclaiming March 20, 1988, as National Agriculture Day.

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

H.R. 3980 PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3980, a bill relating to technical corrections to the agricultural credit laws be placed on the calendar.

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

S. 2091 HELD AT THE DESK

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2091, a bill introduced today by Mr. DURENBERGER, and the accompanying amendment, No. 1468, be held at the desk until the close of business on Monday, February 29, 1988.

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

SENATE SCHEDULE

Mr. BYRD. Mr. President, does the distinguished Senator from California [Mr. WILSON], who is the acting leader, have anything further he would like to say or any further business he would like to transact?

Mr. WILSON. I thank the majority leader.

Mr. President, the only thing that I would add is that in the wake of the cloture vote, should cloture fail, and the majority leader should seek to move to other items, one of those items is Calendar No. 541, Senate Res-

olution 381, having to do with committee funding resolutions.

I advise the majority leader at this time that the minority will seek a rollcall on the final disposition of the resolution.

Mr. BYRD. Mr. President, I thank the Senator for so notifying the Senate, that a rollcall vote will be sought on passage of Senate Resolution 381, Calendar 541.

The distinguished assistant Republican leader, before he left the floor a few moments ago, indicated to me that on tomorrow—I believe I am accurately stating the facts—that would be the measure that would be taken up by the Senate, he thought. Therefore, that being the case, I would like to proceed to that tomorrow, following the cloture vote, and Senators are alerted that there will be a rollcall vote on that measure.

May I say that I have also discussed with the able assistant leader, Mr. SIMPSON, the taking up of a resolution dealing with Afghanistan tomorrow, on which, hopefully, he and I can act as chief cosponsors. In that case, that will be a rollcall vote.

Mr. President, does the distinguished acting Republican leader have anything else? I thank him again for stating the fact that we might have a rollcall vote on Calendar No. 541.

Mr. President, the order for the convening of the Senate on tomorrow at 9 a.m. has been entered, has it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. And the order has been entered for a recess over until tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that on tomorrow, the first hour of the cloture rule be divided equally between Mr. BOREN and Mr. MCCONNELL; that the time of the two leaders, the recognition of the two leaders under the standing order, be waived; that 10 minutes of the 1 hour under the cloture rule be reserved to the use of Mr. SIMPSON; and that 10 minutes of the 1 hour under the cloture rule be reserved to me.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, has not the mandatory quorum under the rule been waived?

The PRESIDING OFFICER. Yes, it has.

Mr. BYRD. Am I not correct, Mr. President, in stating that even though the mandatory quorum has been waived, any Senator retains his right to suggest the absence of a quorum just prior to the cloture vote?

The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in tomorrow at 9 a.m., following a recess.

The 1 hour under the cloture rule will begin running immediately after the prayer, and will be inclusive of the prayer, as a matter of fact. A rollcall vote will occur on the motion to invoke cloture at 10 a.m., barring a quorum call. I do not presently anticipate a quorum call.

That rollcall vote will be a 30-minute vote by order previously entered. I hope that Senators will be present and voting. I have not asked that the regular order be automatic at the conclusion of 30 minutes, but I shall do so at this time.

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

Mr. BYRD. Further rollcall votes are expected to occur tomorrow, one or two are possible. Such rollcall votes have already been discussed.

Mr. President, I thank all Senators for their patience that has been shown, I think at one time or another, at least, by every Senator here during this debate. The vote will occur on cloture, I hope that cloture will be invoked. I am not at this hour under any delusions about it. But as I have stated before, this is an issue that will not go away. There has been a suggestion that this particular bill at this particular time may not survive a cloture motion vote tomorrow, but no Senator should be under the impression that this issue is going away. Nor should anyone be under the impression that the issue will not be revisited in some form this year.

So, Mr. President, having said that I again ask my friend if he has anything further he wishes to say. If not, I shall move that the Senate go out.

Mr. WILSON. Mr. President, I do not. I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the Senator again.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BYRD. Mr. President, in accordance with the previous order, I move that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to and the Senate, at 7:24 p.m., recessed until 9 a.m., Friday, February 26, 1988.

NOMINATIONS

Executive nominations received by the Senate February 25, 1988:

THE JUDICIARY

ALEX R. MUNSON, OF THE NORTHERN MARIANA ISLANDS, TO BE JUDGE FOR THE DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS FOR A TERM OF 10 YEARS, VICE ALFRED LAURETA, TERM EXPIRING.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KENNETH J. BEIRNE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JUNE Q. KOCH, RESIGNED.

OFFICE OF PERSONNEL MANAGEMENT

HUGH HEWITT, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT, VICE JAMES E. COLVARD, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

GEN. ROBERT H. REED [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JONN A. SHAUD [redacted] FR U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE REASSIGNED IN HIS CURRENT GRADE TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HARRY A. GOODALL [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. ROBERT C. OAKS [redacted] FR, U.S. AIR FORCE.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 25, 1988:

THE JUDICIARY

MALCOLN J. HOWARD, OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTICT OF NORTH CAROLINA.

STEPHEN M. REASONER, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS.

RUDY LOZANO, OF INDIANA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHEN DISTRICT OF INDIANA.

DEPARTMENT OF JUSTICE

JOHN E. FRYATT, OF WISCONSIN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF WISCONSIN FOR THE TERM OF 4 YEARS.

PATRICK J. FIEDLER, OF WISCONSIN, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF WISCONSIN FOR THE TERM OF 4 YEARS.

EDGAR W. ENNIS, JR., OF GEORGIA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF 4 YEARS.

CHARLES A. BANKS, OF ARKANSAS, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF 4 YEARS.