SENATE—*Thursday, March 9, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

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

Let us pray:

Blessed are the poor in spirit: for theirs is the Kingdom of Heaven. Blessed are they that mourn: for they shall be comforted. Blessed are the meek: for they shall inherit the Earth. Blessed are they which do hunger and thirst after righteousness: for they shall be filled. Blessed are the merciful: for they shall obtain mercy. Blessed are the pure in heart: for they shall see God. Blessed are the peacemakers: for they shall be called the children of God.—Matthew 5:3-9.

Gracious God, lead us in the way of blessedness that we may be a blessing to each other, our families and the people. In the blessed name of Jesus, we pray. 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. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 9, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following time for the two leaders under the existing order, there is to be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 o'clock, under the order, the Senate will go into executive session to resume deliberations on the Tower nomination.

I ask unanimous consent that the period for morning business be extended to 10:15 a.m., with Senators permitted to speak therein for up to 5 minutes each. This has been cleared with the distinguished Republican leader.

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

Mr. MITCHELL. Therefore, Mr. President, under the order now in effect, the Senate will go into executive session to resume deliberations on the Tower nomination at 10:15 a.m.

The ACTING PRESIDENT pro tempore. The Senator is correct.

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

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:15 with Senators permitted to speak therein for 5 minutes each.

FOREIGN POLICY

Mr. DANFORTH. Mr. President, I noticed the majority leader on the floor. I would like to put a question to him. We have discussed this matter privately, and I wanted to inquire about it on the floor of the Senate.

The issue is, What is the meaning of the defeat of John Tower and what does this do to the initiatives that some of us have been putting forth concerning the establishment of a more cohesive foreign policy for this country?

Mr. President, beginning about a year and a half ago, right after a very contentious debate in the Senate on a State Department authorization bill in which 86 floor amendments were offered dealing with foreign policy, Senator BOREN and I wrote an op-ed piece to the Washington Post related to the need to establish greater cohesiveness between the executive branch and the Congress on matters of foreign policy.

As a result of that op-ed piece, a number of Senators began meeting. We have had communications with both the Reagan administration and now the Bush administration. There has been a meeting at the White House with President Bush. I think it is fair to say that the approach of the President has been very favorable in reaching out toward the Congress to try to create a greater unity in our foreign policy, to try to reestablish the concept of post-World War II of a bipartisan foreign policy.

The theory that we were talking about is that the President and the administration would do a better job of consulting with Congress in the formation of policy. At the same time, the Congress would be more ready to exercise forbearance in dealing with the President in the actual execution of policy.

The President in his inaugural address spoke of this initiative; in his first press conference he spoke of this initiative. And, in turn, the majority leader, in his initial speech to the Senate on becoming majority leader, talked about the need to establish bipartisanship.

My concern is that the vote on the Tower nomination and the debate that has led up to the vote on the Tower nomination constitutes a repudiation of this effort, a rejection of this effort; that what we are saying in the Senate is that the Senate is not going to defer to a President, that the President is not even going to be allowed to pick his own team and that, while we are always willing to consult with the President or consult with the Secretary of State, we are not willing to defer to a President in the execution of policy.

So my questions to the majority leader are: Where do we go from here, if anywhere? What do we do from this

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

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point on, if anything? Is this the first battle in the long and bloody war between the Senate and the President on matters relating to foreign affairs and the team that is supposed to exercise foreign affairs, or is this really an anomaly? What, if anything, can be done now by us, by the Senate, to reach back to the President to try to reestablish the cohesiveness that we have been talking about for the last year and a half?

Mr. MITCHELL. Mr. President, I commend the distinguished Senator from Missouri and his colleague in this effort, the distinguished Senator from Oklahoma, Senator BOREN, for the thought and effort that they have made in seeking to reestablish a bipartisan foreign policy.

Senator DANFORTH referred to my remarks on that subject in my first speech to the Senate in January. My thoughts and some of my words were drawn directly from the initiative which he and Senator BOREN have undertaken in what I hope will be a successful effort.

I cannot control what others say and write of this controversy over the nomination, but I know what is in my mind and in my heart. I can say to the Senator with no hesitation or equivocation whatsoever that this involved a specific person nominated for a particular and, in my judgment, uniquely important position and represents no effort to be harmful to the President or to disrupt what I hope will be a good working relationship.

The Senate will meet its constitutional obligations. The President initiated the process, as the Constitution contemplates, by submitting the nomination. The Senate will meet its obligation to advise and consent or to withhold such advice and consent as the Constitution mandates it to. But there is no larger implication in negative terms in my intention.

Just this Monday, the President invited me and a bipartisan group of the congressional leadership to the White House to receive a report from him, a personal report, on his recent visit to Japan and China. For nearly 40 minutes, the President briefed us in some detail on his meetings with other leaders and, to a person, the leaders on both sides expressed gratitude to the President for his taking the time to do that. Their feelings were one of being deeply impressed by not only the President's willingness to do it but the detail in which he personally involved himself.

On the Friday prior to that—that is, a week ago tomorrow—in my office, I met, with other Senators, with Secretary of State Baker to discuss the formulation of policy in Central America. It was a very positive and productive meeting. Each of the Senators commented directly to Secretary Baker and subsequently privately among themselves after he left as to how impressed we were at his willingness to seek genuine consultation.

And so I want to conclude as I began by commending the Senator, by saying it is very much my hope that we can continue to work together to meet the important challenges the country faces.

And the point he has made so effectively, the exchange of genuine meaningful consultation on foreign policy matters by the executive is a two-way street; all of us know the difference between meaningful consultation and notification and we expect it to be meaningful consultation. I must say to date it surely has been that.

In exchange for that we in the Congress must be prepared to forego the temptation to micromanage foreign policy. The Senator has described a large number of resolutions and amendments on foreign policy matters last year. That was on just one bill, I might add. I think, if the Senator went back and compiled them and others, there would be many, many more.

That is our hope and intention and I look forward to continue to work with the Senator in that regard.

Mr. DANFORTH. Mr. President, I very much appreciate the reassurance by the Senator from Maine and I am sure that is an accurate expression of what is on his mind and in his heart. I am from the "Show Me" State. I do want to be shown.

I think, really, now that the Senate is about to reject the choice of the President for Secretary of Defense we now have to go to the table with the President; we now have to reach out to him; we now have to show that we are willing to pull our weight in formulating a more bipartisan approach to foreign policy.

So my hope is that the consultation will be there on the part of the administration. I am sure it will be. And that the forbearance will be there on the part of the Senate.

I thank the majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. BOSCHWITZ. I would ask the attention of the majority leader for a moment. I am also a member of the group that Senator DANFORTH and Senator BOREN brought together with respect to foreign policy. There are six of us. I have not yet spoken on the floor with respect to Senator Tower's nomination. I will do so during the course of the morning.

I hope, I will say to my friend from Missouri, that I can in some way be more optimistic than I am at the moment about the possibility of rejoining in a bipartisan manner. This, to me, has been the harshest battle that I have experienced, the most personal battle that I have experienced in my 10 years in the U.S. Senate. I think, very frankly, as I indicated to the majority leader about 2 weeks ago when I went to his office, that it is going to be hard to pull the pieces back together. It certainly will not be automatic. As I measure the feelings on this side of the aisle—and I must say, Mr. Leader, I include myself among those who had the feeling—we feel abused and hurt. And that this is a harshly partisan battle.

When people tell me well, all of you are voting one way and is that not as partisan, I think it is reasonable to expect that Republicans will vote for the nominee of the Republican President. And, indeed, in the past as has been indicated by most of the nominations that have come before us, it is even reasonable to expect that on both sides of the aisle. So part of my speech will be that has been the most harshly partisan battle that I have experienced. And it is going to take some real doing on the part of the majority leader, on the part of the President, on the part of the others, to draw the Chamber back together; to draw the spirit of bipartisanship back together. And it has to be done. But whether it can be done in the short term—in the long term, of course it can be done, in my judgment. But we are going to suffer because of this battle and that is a very unfortunate aspect.

As I will say in my speech, what I said to the majority leader, we look forward to new and better times in the Senate. Not that I have harsh words to say about the former majority leader but he was just leader for so long that you have to say no to the position of leadership. So that when you are in the saddle long enough you, indeed, raise a lot of objections to the conduct of the Senate over a period of years. But it is going to be difficult and there are very strong feelings on this side, which I share, that we have been had. We do not like it. So it is going to take some efforts on the part of one and all.

Mr. MITCHELL. May I now respond?

Mr. BOSCHWITZ. Certainly. I yield.

Mr. MITCHELL. I would make two points acknowledging what the Senator has already said. If he has not already done so, I strongly recommend to the Senator that he go back and read, as I have read, the debates on nominations made by President Carter 12 years ago this month before he expresses himself too strongly on the question of partisanship in opposition to nominations of the President.

Mr. BOSCHWITZ. Were any of them rejected?

Mr. MITCHELL. No, but it was not for lack of trying by the Republicans in the Senate. It was not the result that matters. It was the standard that was applied.

Second, if I could just say, I think you are correct about the difficulty which will ensue as a result of this. I would simply say that the more harsh words that are spoken, and many words remain unsaid, the greater the difficulty and the more effort is required to return to the kind of spirit that we all hope exists. I hope the Senator will also bear that in mind.

I mean not in any way to suggest that anyone ought to not say whatever they want. But the fact of the matter is, if the predicate for the remarks of the Senator is that harsh words make it more difficult to come together, then of course it follows logically that the more harsh words that are spoken, the more difficult it becomes to come together.

But I tried very hard to establish a positive working relationship both with the distinguished Republican leader—who I might say is waiting for me in my office right now, so I have to go. I do not mean to cut this off, but he is waiting for me. I do want to talk with him, and my colleagues. And I hope very much we will be able to continue that.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota has the floor.

Mr. DANFORTH. Would the Senator yield for about 15 seconds?

Mr. BOSCHWITZ. Yes.

Mr. DANFORTH. I would just like to say to the majority leader that I would hope that whatever happened to President Carter, no matter who was to blame for it, is not repeated with respect to President Bush. That is exactly the issue. For one reason or another, the Carter administration did become unglued and I just do not want that to happen to President Bush, especially on foreign policy. That is why I appreciate the reassurance of the leader.

Mr. BOSCHWITZ. I would say to my friend from Maine that this is a different type of a battle. This is a personal type of battle. And I presume that that did not occur with respect to President Carter's nominees; that they did not run through the FBI files, anonymous tips of stewardesses on planes, before they could even get to the FBI, were already in the press. It is the nature of this battle that is difficult.

I do not intend to use harsh words, Mr. Leader. Not at all. I just will state the facts or the positions that the Senate finds itself in, as I find it, a little bit later.

Mr. MITCHELL. I simply would say to the Senator that I would argue, and I believe there is substantial basis for the argument, that the position taken in 1977 that disagreement on policy alone is a sufficient basis to reject a Presidential nominee—which was the position taken by the Republicans in the Senate at the time—is a far more expansive reading of the role of the Senate in the confirmation process than that which has been advanced during this debate. And, in my judgment, that position was plainly wrong. I have voted for many nominees of a Republican President with whom I have strong policy disagreements because I did not feel that was the proper role.

So if you look at the bases upon which the respective views have been held as to congressional power, in my judgment, the position taken here is far more limited in terms of senatorial power, far more deferential to Presidential prerogative than that which was previously taken by Republican Senators when the situation was first presented.

I want to make this clear, as I said to Senator WARNER on the floor. A reading of the RECORDS, 1977 and 1989, make one thing very obvious; that is, the positions taken in the Senate with respect to the relative powers of the President and the Senate are, to a significant degree, based upon the party affiliation of the President and the party affiliation of the Senate.

In 1977, Democrats argued for a broad Presidential prerogative; Republicans argued for a narrow Presidential prerogative. In the intervening 12 years, they have each undergone a migration to the opposite point of view. We all understand that. That is a reality with which we must deal.

My point is that the basis of the arguments advanced by Republicans in 1977 to senatorial prerogative were far more expansive, far greater, a much larger invasion of Presidential prerogative than has occurred as a result of this debate. I think that must be kept in mind. I really do have to leave.

Mr. BOSCHWITZ. I will say to the leader, we are used to having policy debates on the floor of the Senate. That goes on all the time. It is the nature of this debate that happens to be different, and it is the nature of the debate that is causing the problem. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. MITCHELL. Will the Senator yield?

Mr. NICKLES. Certainly.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. We originally scheduled morning business until 10:15, but it has now been consumed by the colloquy among myself, Senator DANFORTH, and Senator BOSCHWITZ. Mr. President, I ask unanimous consent that the period for morning business be extended to 10:30.

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

FEDERAL RESERVE BOARD

Mr. NICKLES. Mr. President, I rise today to express some concerns about some of the actions that the Federal Reserve Board has taken throughout this past year. Since March 1988, as most of my colleagues are probably aware, the Fed has been making a change in monetary policy to cool the economy in an effort to fight inflation. I share their concern about inflation, but I do not agree on the results.

They have constricted monetary supply, they have raised interest rates, and we have seen the result with the prime rate which has now increased 3 percentage points from March of last year, 1988, 8.5 percent. In March 1989, it is 11.5 percent. I am concerned what that will do to the economy. I am concerned what it will do to the budget.

The interest rate that we pay for Government money on short-term T-bills has risen by 3.5 percentage points from March of last year to March of this year. I am concerned what that does for the budget this year, and I am concerned what it will do for the budget next year.

I really have a concern as a Budget Committee member, and also as a taxpayer. As much as all of us would like to see the deficit reduced, I am afraid the actions the Federal Reserve Board has taken have really torpedoed the budget. I am afraid they have already taken actions that are going to make it difficult, if not impossible, to meet our budget targets unless they instill some moderation in monetary policy.

What did they do for the budget this year, the budget that we are in right now in fiscal year 1989? Last October, it was estimated we would have a budget deficit of $146 billion. That has recently been revised. The February estimate said, well, that will not be $146 billion, it will be $163 billion. So I asked the Budget Committee, "Could you give me a sheet and give me a breakdown of the differences? How did it increase by $17 billion?"

I found out that $11 billion of the increase was increased interest expense; also an $11 billion increase in estimates for FSLIC, and then they estimate the revenues will increase by $5 billion. So we have an increase in the deficit for the year that we are in right now, fiscal year 1989, from $146 to $163 billion, most of it interest-related. Because as interest costs increase, not only does the deficit increase because of the cost the Government pays for the money, but it is also the cost of fixing the S&L problem. The S&L problem will continue to es-

calate if the Federal Reserve continues to increase the price of money making that much more difficult, again, for the Government and for taxpayers and for ratepayers.

I think all of us should be concerned about that. I know that every Member in this body wants to see the deficit come down. The administration has assumed an interest rate assumption of 5.5 percent in short-term rates for next year. Today those rates are at 9 percent, a little bit less than 9 percent today.

So they are almost 3.5 percentage points off. That means we are going to be spending billions of dollars more for interest. That is not money for NASA, that is not money for research, that is not money for education, that is not money for health, that is not money for housing; that is money for interest. That is not because of congressional action, that is because of action by the Federal Reserve Board.

They are really torpedoing the budget. They are blowing it out of the water, and people should be aware of it because the actions the Fed is taking today are certainly going to have an impact on the budget tomorrow. I bring this to my colleagues' attention because I think we should all be aware of it. That does not mean we should disregard inflation, that does not mean we should look the other way, it does not mean we should endorse a hyperinflation economy, but I look at the actions the Federal Reserve took when we did have a high inflation, and you might say they "cured" inflation with high interest rates back in 1979, 1980, 1981, and 1982, but what they really did was put us into a heck of a recession.

Yes, they increased interest rates. My colleagues will remember we had prime interest rates of 21.5 percent. That did put this country into a recession. That was not helpful. We did see deficits increase from about $60 to $200 billion primarily because of the recession caused by the Federal Reserve.

In 1982, they had a real change of philosophy and they greatly reduced interest rates. Then we saw the economy begin to grow. I just do not want the Fed to overcorrect or overract in their efforts to fight inflation. I am afraid that they may be doing that by this very significant increase in interest rates of 3.5 points in the last year. I hope that they will take these points in mind. I have made them to Chairman Greenspan. I have also made them to the President of the United States. I would be hopeful that other colleagues would join me in a letter to the President stating these similar concerns.

Mr. President, I yield the floor.

Mr. KASTEN. Mr. President, first of all, I want to commend the Senator from Oklahoma for his leadership in raising this important issue to the Senate and to the American public.

Mr. President, no one in this body can accuse the Senator from Wisconsin of being a "Chicken Little" about our Nation's economic future. Over the last 8 years, I have repeatedly pointed to the smashing successes of supply-side/market-oriented economic policies—and I remain optimistic about our economy's potential to create more jobs and more opportunity for all.

Unfortunately, this economic potential is being threatened by Federal Reserve Board's recent tightening of the money supply. In my opinion, if the Fed persists in tightening credit and raising interest rates, our economy may be headed for a recession.

Mr. President, it certainly is not the intention of the Fed to throw the economy into a tailspin and put hard working Americans out of work. Indeed, the Fed correctly asserts that price stability is essential to economic growth.

I share this view. I don't deny that inflation has to be controlled. What I do deny is that it is presently out of control. Many economists believe that 0.6 percent January increase in the Consumer Price Index is just a short-term uptick. Commodity price indexes, which many believe to be the most sensitive indicator of future inflation, have actually declined over the last 12 months. Another historic indicator has been the price of gold—and today the price of gold is cheaper than it was a year ago.

Why then is the Fed tightening credit? I have no doubt that the Fed weighs a number of important economic factors in its decision to raise or lower interest rates. And I don't want to in any way imply that the Fed governors are unaware of the economic fallout of their current policy.

I do believe, however, that the Fed's actions point to a bias against rapid economic growth. Indeed, Fed Chairman Alan Greenspan recently stated the economy cannot grow above 2.5 percent without reigniting inflation.

Mr. President, this is where I disagree with the Fed—and I believe history is on my side. In this expansion, real growth averaged 4 percent and inflation plunged from double-digit rates to about 4 percent today. Since 1948—a period including eight recessions—real economic growth averaged 3.25 percent.

Mr. President, the Fed should admit once and for all that "Growth is Good." Putting more people back to work does not cause higher inflation. In this decade, we've seen the abolition of the Phillips Curve trade-off between inflation and unemployment. We can look at the evidence in other countries: Japan and Switzerland have less than 2 percent unemployment and 2-percent inflation. Low unemployment does not cause inflation.

The Fed's attitude on this subject only serves to prop up short-term interest rates—making it even more difficult to bring down the Federal budget deficit. If the Fed continues raising interest rates, it will jeopardize our efforts to reach a bipartisan agreement on the deficit. According to the Congressional Budget Office, a 1-percentage point higher interest rate will increase the fiscal year 1990 deficit by $11 billion and a 1-percentage point lower real GNP growth will increase the deficit by $24 billion.

Comments by Fed officials to the effect that interest rates cannot come down until Congress brings down the deficit has been interpreted by some in the financial markets as a tax-increase ultimatum.

Mr. President, unless the Fed halts its policy of encouraging the rise of short-term interest rates, we may be in danger of recession. In fact, some supply-side economists—many of whom have been accused of being pollyanish in the past—fear that a recession may already be baked in the cake. I can't stress this strongly enough. I'm optimistic about the economy and its overall strength and resiliency—but believe me, there won't be much left if the Fed keeps tightening credit.

The fight against inflation should be a shared responsibility between the Fed, and the President and the Congress. Fiscal policy can enhance the Nation's productivity and thus reduce inflationary pressures. We should cut the capital gains tax to increase capital formation. We should reduce the growth of Federal spending to release economic resources for private sector use.

Mr. President, I urge the administration to stay firm in impressing upon the Fed, the markets, and the American people that economic growth is the source of our national well-being. The President, the Secretary of the Treasury and the Director of the Office of Management and Budget must stress the importance of economic growth in the timely reduction of the budget deficit.

Mr. President, I ask unanimous consent that an article by Warren Brookes and an article by Paul Craig Roberts on this subject be printed at this point in the RECORD.

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

[From the Washington Times, Mar. 2, 1989]

TAKING A "RANDOM WALK" TO RUIN?

FORECAST FAULTS FED

(By Warren Brookes)

In July 1981, the consensus forecast was for 3.2 percent growth in gross national product for 1982. Only one major private forecaster, H.C. Wainwright, said the economy would plunge by 2 percent. It did.

Last week, H.C. Wainwright warned clients that its forecasting model, "for the first time since the spring of 1981, has issued a clear warning of economic recession."

Since the Wainwright model is based on short-term interest rate futures, its recession prediction is entirely the result of the Federal Reserve's 12 months of credit tightening.

Over the last 12 months, the basic money measure, M-1, has risen only 3.2 percent and short-term rates have shot up by 350 basis points. The dollar has also stabilized, causing Wainwright to predict a 4-point drop in wholesale inflation by year end.

"This recession, like all others, will be the direct result of Federal Reserve Board excesses," said David Ranson, president of Wainwright. "The Fed has apparently fully reverted to a policy of trying to fine-tune the economy month-by-month, a sure recipe for an unnecessary and undesirable recession."

Wainwirght warned its clients, "If the Fed permits interest rates to move even higher than they already have, the expected recession will be deeper and more prolonged."

The same alarms were rising at last week's Cato Monetary Conference in Washington: "The Fed has slid down the slippery slope of fine-tuning," U.S. Chamber of Commerce Chief Economist Richard Rahn told us, "and now the market is driving it. If the Fed doesn't react the way the market now expects, it could risk even more serious temporary consequences."

Even as he spoke, Fed Chairman Alan Greenspan was "ratifying" the 0.6 January uptick in the Consumer Price Index by sending the Federal Funds Rate up still higher, to the 9.8 percent range, pulling T-Bills toward 9.2 percent, up from February 1988's 5.7 percent.

Since the total movement in year-over-year inflation in that period was less than 1 percentage point (from 3.9 percent to 4.7 percent), while gold has fallen 9 percent, and long bond yields have been flat, the Fed clearly seems to have been overreacting, traveling down its own short-term discretionary course, reacting to every economic indicator, instead of following rules.

As Nobelist economist James Buchanan told the Cato Conference, "There exists no monetary constitution in the United States in 1989. What does exist is an institutionally established authority [Federal Reserve Board] charged with an ill-defined responsibility to 'do good' as determined by its own evaluation.

"We would have no difficulty in classifying an analogously directed military junta in a Latin American setting, as non-constitutional, by which we would mean quite properly that it operates in accordance with no predictable rules of behavior.

"Viewed in this perspective, it becomes difficult if not impossible to mount intellectually respectable defense for the continuation of the monetary institutions that are in being."

Professor David Fand of Wayne State, Mr. Buchanan's collaborator on a forthcoming book on the need for a monetary constitution instead of the Fed's "discretionary fine-tuning," argued that Fed policies amount to "a random-walk monetary standard."

"Unfortunately, the Federal Reserve's Open Market Committee—the policy-making arm of the Central Bank—does not have a monetary policy. What the FOMC is doing, in effect, is responding to the fires that rage each month. The FOMC members may have an idea of how they would respond to a typical fire, but they do not know which fires will be burning next month, three months from now or nine months from now. Under this random-walk monetary standard, the uncertainty about monetary policy grows exponentially as we look to the future."

The result of this uncertain, month-by-month "tinkering" is to make the whole economy less efficient, as more and more capital market activity is spent hedging against the "random walk" of the Federal Reserve and its resulting instabilities.

As one economist put it, "The Fed is like Mr. Magoo cheerily moving from one disaster to the next, leaving behind a wake of destruction, happily oblivious to its own calamitous course."

Unfortunately, Mr. Fand argues, the reason is not personal but institutional: "For the Fed to follow a stable and predictable monetary rule is to give up its tremendous powers and it is hardly likely that an institution with the extraordinary powers and influence of the Fed will voluntarily commit suicide."

In short, "Unless we can agree on a monetary constitution and rules, we will continue to have politicized central banking operating in a random-walk monetary standard."

Right now we appear to be on "a random walk" to potential ruin.

IS FEDERAL RESERVE OVER-TIGHTENING?

	Feb. 1988	Feb. 1989	Percent change
Monetary aggregates (In billions):			
M-1	$759.5	$784.0	3.2
M-2	2,946.2	3,066.9	4.1
Interest rates (percent)			
Fed Funds Rate	6.58	9.75	48.1
T-Bill Rates	5.69	9.15	60.8
10-Year Treasuries	8.21	9.20	12.1
Latest year-year inflation indicators (percent)			
PPI	2.1	4.4	
CPI	4.0	4.7	
GNP Price Index	3.4	3.4	
Commodity Index (CRB)	8.9	7.7	
Gold Prices	6.1	(9.8)	

Sources: Bureau of Labor Statistics, Bureau of Economic Analysis and Federal Reserve.

DUBIOUS ATTACK ON INFLATION

(By Paul Craig Roberts)

It is hard to know for certain whether Federal Reserve Chairman Alan Greenspan is trying to do a good job of managing the economy or whether power has gone to his head, causing him to take on President George Bush the way his predecessor, Paul Volcker, took on President Ronald Reagan.

To many people, the Fed's increase in the discount rate seems like a strong response to a one-month upward blip in inflation. A little mist doesn't a monsoon make. Moreover, if inflation is picking up speed, it is not a monetary inflation.

The Fed has not been feeding the economy with easy money and low interest rates. Instead, it has been continually tightening for two years, with money supply growth slowing and interest rates rising.

Since the Fed has not been inflating the economy, its anti-inflationary monetary policy will take a toll in terms of reduced real output (fewer goods to buy), less tax revenues and a larger deficit.

If Mr. Greenspan really believes the deficit is at the root of our problems, why does he pursue a policy that can only increase the deficit?

Some economists believe in "cost-push" inflation, which is inflation that is independent of the Fed's monetary policy. In this view, the only way the Fed can combat "cost-push" inflation is to shut down the economy and force up the unemployment rate.

In that event, the deficit could rise to $300 billion and set in motion a panic that could lead to a tax increase. That could push the economy from a recession to depression and spell the end of the worldwide capitalist revival during the 1980s.

Monetary policy cannot deal with "cost-push" inflation at an acceptable cost. If costs are rising, that is a problem for fiscal policy, and here we do not mean the size of the budget deficit.

Fiscal policy impacts the economy in much more important ways than the state of the budget, whether it is in deficit, balance or surplus. Through taxes, fiscal policy directly affects the cost of labor and capital.

A Social Security payroll tax increase is scheduled for January 1990, and Congress, with Mr. Bush's support, is planning to increase the minimum wage.

If the Fed is right that tightness in labor markets is beginning to push up wages, this is hardly the time to be increasing the cost of labor.

If it true that the economy is encountering capacity constraints that push up the cost of production, then this brings out the shortcomings of the 1986 tax reform bill. In this bill, lowering the cost of capital took a backseat to the taking away of investment tax breaks for business and individuals. Consequently, the cost of capital rose.

When businesses hear the Federal Reserve predict higher inflation, they have two responses, both of which work to curtail investment:

Their depreciation allowances are not indexed for inflation. Therefore, higher inflation means a decline in their real capital recovery allowances or cash flow.

Businessmen also know that the Fed's anti-inflationary policy means higher interest rates and perhaps a recession. They don't want to be caught with investments in new plants and equipment just in time to lay off their workers.

Therefore, the more the Fed shows its lack of support for economic growth, the less our productive capacity expands, making "capacity restraints" a self-fulfilling prophecy.

The intelligent way to fight "cost-push" inflation is not to tighten monetary policy, but to loosen fiscal policy in the sense of reducing taxes and curtailing legislation that drives up the cost of production.

Some may object that that would make the deficit bigger. Perhaps, but a lot less big than the Fed will make it by causing a recession.

The serious problem with Mr. Greenspan, the Federal Reserve and too many economic advisers and columnists is that they still think of fiscal policy in terms of the size of the deficit. This old way of thinking is setting us up for a "cost-push" inflation driven by taxes and legislation, while the Fed tries to fight these costs by closing down the economy with monetary policy.

It should strike fear in our hearts when we hear Mr. Greenspan say: "Give me a smaller deficit and I'll give you easier money and lower interest rates." That is the path back to the stagflation of the 1970s.

If a smaller deficit means higher taxes, the costs of labor and capital will rise, slowing investment. Easy money then fuels

demand, driving up prices. It was exactly this foolish policy mix from which supply-side economics rescued us. If President Bush allows Mr. Greenspan or anyone else to resurrect this policy mix, he will deservedly go down in infamy.

(The remarks of Mr. REID pertaining to the introduction of legislation are located later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

REMARKS ON THE CONGRESSIONAL RECORD

Mr. DECONCINI. Mr. President, I would like to comment on the diligence and dedication of the personnel in the Office of the Official Reporters of Debates for the CONGRESSIONAL RECORD. They work long hours, perform their work in a conscientious manner, and are very meticulous about the English language. I am certain I speak for all the Members of the Senate when I salute their efforts.

This RECORD is very important, Mr. President. It is vital for reasons of history and posterity. It is crucial as a reference and point of dialog. And it is critical for accuracy. The minority leader, Senator DOLE, yesterday said that I was not clear on my remarks regarding Senator Tower's nomination as Secretary of Defense as they related to a question from Senator SPECTER. Let me quote from Senator DOLE's remarks:

I went back to recall what Senator DECONCINI said on the Brinkley show. He said, "I have seen John Tower with a few drinks under his belt but not inebriated." That was Sunday. Yesterday he said, "I have seen Senator Tower under the influence of alcohol." Which is it? Is there a difference between being inebriated and under the influence? Which is it? Isn't there any decency left in the Senate?

The Senator from Kansas was elected in 1968. He is familiar with the CONGRESSIONAL RECORD. He knows where to find it. He should carefully read the March 7, 1989, CONGRESSIONAL RECORD and refer to page S2219. In reference to Senator SPECTER's question, I answered precisely what Senator DOLE has asked to clarify. It is very clear and precise. It is also very clear and consistent with what I said on the Brinkley show. I ask unanimous consent that the following articles be reprinted at this point in the RECORD.

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

[From "This Week With David Brinkley," Mar. 5, 1989]

Mr. DONALDSON. Have you ever seen him inebriated?

Senator EXON. I have never seen him inebriated.

Mr. DONALDSON. Have you, Senator DeConcini?

Senator DECONCINI. I have seen John Tower with a few drinks under his belt, but not inebriated. And I've seen other Members on the Senate floor.

[From the CONGRESSIONAL RECORD, Mar. 7, 1989, p. S2219]

My question is this: In the light of these hundreds and hundreds of votes in the late evening hours or through the night, in the presence of the Senator from Arizona and in the presence of some 70, 80, 90 of our colleagues, is not the fact that not one Member of this body ever noticed Senator Tower under the influence of alcohol much more persuasive than even the characterization of the FBI file by the Senator from Arizona?

Mr. DECONCINI. Let me answer that question. That is the first time that question has been posed that I know of, whether or not he was under the influence or whether or not he was inebriated.

I have seen Senator Tower under the influence of alcohol, and under control, as I have seen other Members of this body.

So, if my colleague wants to know have I seen him under the influence of alcohol, the answer is "Yes." I cannot give my colleague the date, but I have seen him right here as I have seen other Members.

Was he inebriated to the point he could not operate? The answer is no. But let me read, from the committee report in response to what the Senator asked. This is what the committee said regarding what Senator Tower said before the Armed Services Committee:

"Senator Tower, and close associates and friends, have conceded Senator Tower had a drinking problem in the 1970's."

He was in the Senate in the 1970's. I was not, but he was serving in the Senate. Well, I was in the Senate in the last part of the 1970's.

He himself admits that he had a drinking problem. As the Senator understands alcoholism, and I know he does, many people who have drinking problems do not admit it or carry it around with them in public for good reason.

Mr. SPECTER. Is the Senator representing——

Mr. DECONCINI. Please let me just finish. The FBI report goes further and cites some instances where he was reported after coming off the floor, and the Senator has to make his own judgment whether he thought those were substantiated or not. I concluded that some instances were and some were not.

Mr. SPECTER. Is the Senator from Arizona representing he has seen Senator Tower, either inebriated or under the influence of alcohol on the floor of the Senate—let me finish the question—so that he was impaired from performing his duties as a U.S. Senator?

Mr. DECONCINI. I just made it very clear and I will make it very clear again. This Senator has seen Senator Tower under the influence of alcohol, as he has seen other members. I have not seen him inebriated to the extent he could not perform his duties. I have said that for the second time for the Senator from Pennsylvania so that this is very clear.

WARNINGS OF WEST GERMAN INVOLVEMENT IN LIBYA'S POISON GAS COMPLEX

Mr. HELMS. Mr. President, last week the West German Embassy delivered to each Senate office a copy of the West German Government's report to Parliament identifying German firm involvement in the Libyan poison gas complex at Rabta. The report addresses the questions, what did they know and when did they know it?

The easy answer is, they knew a lot and they knew it early. As early as April 22, 1980, the West German equivalent of the CIA, called the BND, reported that "with the help of West German experts, Libya is developing a plant for the manufacture of chemical warfare agents as well as a system for using them."

Mr. President, the German report contains a chronological accounting of the information which was received and what action, if any, was taken in response. According to the chronology, the BND sent in 24 positive reports on Libyan chemical weapons activity between April 22, 1980, and January 1, 1989, when the issue became a page 1 story in the New York Times. During the same period there were at least five positive reports from West German embassies in Moscow or Tripoli and one report from German Customs.

In March 1984 the United States began a diplomatic offensive designed to encourage the German Government to take action. The chronology lists seven increasingly urgent diplomatic notes and six reports on Libya to the BND from "an allied intelligence service," presumably the CIA. Finally, the United States held three intelligence briefings, one of which was by the Director of the CIA. All of these efforts failed.

Many of these reports by American and German entities identified German companies by name. For example, as early as July 1984 the West German Embassy at Moscow, reporting from "non-Eastern sources" identified Imhausen, and detected its plans to ship chemical weapons equipment to Libya using Hong Kong as a cover. The Embassy knew and reported that a West German Government-owned firm was involved. We now know that the Government-owned firm, Salzgitter AG, assigned 45 engineers to actually design the poison gas plant and that this was an open secret.

Mr. President, perhaps as much as anything, the chronology reveals a massive failure on the part of the German Government to respond to the information it was receiving. The issue goes beyond mere incompetence. It is clear that German bureaucrats knew that higher ranking officials did not want to hear accusations against German exporters.

For example, the United States gave the German Foreign Ministry a diplomatic note on May 18 of last year. The note expressed "concern over the participation of companies from the Federal Republic of Germany in the supply of chemical facilities to Libya and the reequipping of Libyan C-130 aircraft to give them mid-air refueling

capability." Foreign Minister Genscher was allegedly not informed of the American note until January 16 of this year—nearly 8 months later and at a time when the German Government was under a blizzard of criticism on this issue. No one at the German Foreign Ministry has been censured for this delay, making it fairly obvious that the bureaucrats at the Foreign Ministry were carrying out their orders. One German magazine called this policy, "Death For Sale. Export at any Price." Who can quarrel with that description?

While the German report is revealing, it raises a number of questions and issues. It is designed as a damage-limitation exercise and covers only Libya. it does not mention information which the German Government may have received about German firm involvement in Iraq, Syria, or Iran. For example, we have recently been told that the State Department sent a diplomatic note to the German Government on German firms supplying chemical weapons equipment to Iraq in November 1983.

Mr. President, I ask unanimous consent that a chronology on German firm involvement in the Rabta, Libya, poison gas complex be printed in the RECORD at the conclusion of my remarks. The chronology is a condensed version of the report submitted by the Government of the Federal Republic of Germany to the German Parliament on February 15, 1989.

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

RABTA WARNINGS

22 April 1980—"The BND [West German equivalent of the States Central Intelligence Agency] reports that, with the help of unnamed East and West German experts, Libya is developing a plant for the manufacture of chemical warfare agents as well as a system for using them".

12 February 1981—"The BND reports that Libya intends to import chemical warfare agents which can be used with long range artillery, helicopters and high-speed aircraft as well as with medium-range missiles. The chemicals needed for the production of chemical warfare agents are reportedly to be purchased in Western Europe (Great Britain, Italy and Germany). It is thought that, in view of the growing amount of evidence, there can be no doubt about the seriousness of Libyan efforts".

22 July 1981—"The BND reports that Libya is attempting to purchase precursor chemicals in Italy and Spain.

15 December 1981—The BND reports that Libya may already have the ability to use chemical warfare agents on a small scale.

13 December 1982—The BND reports that it is "highly probable" that a production facility for nerve gas already exists in Libya, though it is more likely to be under construction.

22 July 1983—"The BND reports that Libya has its own plant for the manufacture of mustard gas which attacks the skin. The plant is said to have started production at the end of 1981. Its location is presumed to be near Abu Khammash."

July 1984—The BND reports that a former employee of a German company had gone to Libya for one year and earned a great deal of money. The BND presumes that he had built a plant for the production of mustard gas next to the Abu Khammash chemicals complex. The BND reports that this complex contains a chloride electrolysis facility built by a German company according to a standard design and operating on the basis of sea-salt and that it could produce one of the precursors needed for mustard gas.

5 December 1984—"The BND reports that a production facility for nerve gases may exist in Libya, though it is thought more likely to be still under construction."

5 July 1984—The West German embassy in Moscow reporting on information from a "non-Eastern source" indicates that the Imhausen Company has contracted in Hong Kong to provide supplies for a pharmaceutical project. Because of the secrecy surrounding the project and the special design of the plan ("glass instead of steel pipes, which implies the production of poison gas") there is suspicion that it may be for Libya. A German government owned firm is also involved.

15 January 1986—The BND again reports that a production facility for nerve gasses may exist in Libya.

28 January 1986—"The BND reports that the plant for the manufacture of mustard gas in Libya is said to have been constructed under the management of a member of a German company identified by name. The plant is presumed to be on the site of the Tajura nuclear research center".

7 February 1986—"The BND reports on news from an allied intelligence service according to which 100 tons of sodium fluoride may have been shipped from Zeebrugge [Belgium] to Libya on the Panamanian freighter "Capira" at the beginning of October 1985. This is said to involve a German shipping company identified by name".

18 February 1986—The BND reports that Libya possesses chemical warfare agents including mustard gas and possibly the nerve gas sarin. The location of the factory is thought to be in or near the Tajura nuclear research center.

17 March 1986—"The BND reports that the recipient of the 100 tons of sodium fluoride is the Tajura nuclear research center where, in the opinion of the allied intelligence service, research work is also carried out on chemical warfare agents. Should this be true, the sodium fluroide purchased by the center is believed to be intended for the manufacture of nerve gas".

25 March 1986—The United States Embassy Bonn passes a "nonpaper" [informal diplomatic note] stating that a company was thought to be negotiating with Libya on the sale of nuclear, biological and chemical defense equipment.

28 October 1986—An "allied intelligence service" requests information on the IBI [Ihsa Barbouti International] operation in Frankfort in light of its belief that IBI had been commissioned to set up a microbiological research center in Libya.

Late October 1986—The United States hands over an unofficial paper indicating that Libya is attempting to procure protective equipment against chemical weapons.

22 June 1987—"According to information from an allied intelligence service, a [chemical] warfare agents factory is about to be completed near Rabta with a production capacity estimated at 1 to 3 tons of sarin [nerve gas] per day".

2 July 1987—"The BND reports that production is expected to begin at Rabta in September 1987".

3 August 1987—"The BND confirms from its own intelligence (SPOT satellite pictures) that the new industrial plant near Rabta is most likely the new [chemical] warfare agents factory". Inquiry regarding Barbouti International in Frankfort.

27 August 1987—The BND reports that "Libya possesses specially trained units for chemical warfare and nuclear, biological and chemical defense".

28 October 1987—A German businessman in Libya reports to the West German embassy Tripoli that preparations are being made by the Libyans "with the assistance of Western companies" to produce poison gas.

7 January 1988—The West German embassy Tripoli reports that there is thought to be a Libyan military research facility northwest of Rabta "presumably for research work and the manufacture of nuclear, ballistic and chemical weapons".

26 January 1988—The German embassy in Tripoli reports "that the military research center for the production of chemical warfare agents is probably already capable of operating. German companies are also involved".

27 January 1988—"The BND confirms that its own intelligence and the opinion of allied intelligence services indicate that the object identified near Rabta is a plant for the production of warfare agents and possibly for ammunition".

15 March 1988—West German Customs discovers that IBI (Barbouti) "may be involved in the illegal transfer of technology".

18 May 1988—The United States Embassy Bonn delivers an unofficial diplomatic note expressing "concern over the participation of companies from the Federal Republic of Germany in the supply of chemical facilities to Libya and the re-equiping of Libyan C-130 aircraft to give them mid-air refueling capability". Imhausen was named as was the firm Technical Trade and Logistics Society Limited.

15 July 1988—"The BND receives information from an allied intelligence service concerning possible supplies from German companies for the construction of a poison gas production plant in Rabta. The firms named are IBI, Pen Tsao and Imhausen".

12 September 1988—BND "intelligence work reveals the possible involvement of individual citizens of the Federal Republic [of Germany]" in the Rabta complex.

21 September 1988—West German State Secretary and BND inform parliamentary control commission of chemical weapon capabilities in the Middle East and the possible involvement of Germans in Libya.

21 September 1988—The American Embassy Bonn hands an unofficial paper to the German Government "according to which Libya has developed a chemical weapons production capability with outside help, including Western European companies, and is about to begin mass production. The U.S. Administration appeals for a stop to any assistance to Libya for the development of its own capability to manufacture and use chemical weapons".

30 September 1988—The BND reports that according to an allied intelligence service "Germans are to be found among those working on the [Rabta project]." The BND also reports that "even before the project began Imhausen had been delivering unspecified precursors".

11 October 1988—The BND holds "a meeting with foreign experts. These mention IBI

and three other German firms involved in work at Rabta".

13 October 1988—The BND issues an extensive report on Rabta and concludes that German firms, among others, are extensively involved. The BND suspects that one German firm "(identified by name)" had been supplying precursors as early as 1985.

14 October 1988—An allied intelligence service reports to the BND on the involvement of the Imhausen firm in "putting the alleged [chemical] warfare agents plant into operation and possibly the repair of damage to the production facilities, too".

20 October 1988—Chancellor Kohl is briefed for the first time on the information gathered by the German intelligence services in relation to Libyan efforts to establish a chemical weapons factory. The Chancellor is informed that German firms may be involved, particularly Imhausen.

25 October 1988—"The BND President presents an account of Libya's [chemical] warfare agents program and the information he holds on the contribution of German companies".

11 November 1988—Secretary Shultz sends a letter to Foreign Minister Genscher indicating concern in the U.S. administration over Libyan chemical weapons capability. The Secretary offers an "intelligence briefing" during Chancellor Kohl's visit.

15 November 1988—Secretary of State Shultz and CIA Director Webster inform Foreign Minister Genscher and Chancellor Kohl "of the involvement of German companies, including Imhausen and IBI".

18 November 1988—The BND reports to the German Federal Chancellery extensively on Rabta noting that the State-owned firm of Salzgitter AG had supplied a plan of the plant and Imhausen Chemie had supplied components and chemicals. "Deliveries are said to have been made by, among others, two major companies identified by name". The BND also reports that Imhausen "had removed documents to a neighboring country in spring 1988 in response to a report published in the New York Times on 24 December 1987 on the production of chemical weapons in Libya".

21 November 1988—The German embassy in Washington reports that the U.S. Department of Defense has "confirmed intelligence" on the chemical weapons plant.

24 November 1988—The BND delivers to Chancellor Kohl a report similar to its report of November 18.

5 December 1988—The U.S. Ambassador to West Germany hands to the German Foreign Ministry a paper concerning the technology center and the chemical factory at Rabta. "The paper contains references to the production of mustard gas and sarin [nerve gas] as well as to the participation of the Imhausen and IBI companies".

15 December 1988—The U.S. Embassy Bonn hands over an unofficial note to the German Foreign Minister with an appeal to counter Libyan efforts to acquire a chemical weapons capability.

22 December 1988—U.S. delegation presents photographic material on the Rabta plant to their German colleagues".

A RESERVOIR OF UNTAPPED IDEALISM

Mr. PRESSLER. Mr. President, we have heard many times that children are our greatest natural resource. We need their intellectual talents and technical skills to compete in this increasingly competitive and technologically sophisticated world. Stephen Trachtenberg, president of George Washington University, wrote an interesting article on this issue which I would like to bring to our colleagues' attention. I ask unanimous consent that a copy of "A Reservoir of Untapped Idealism" from the Washington Times be placed at this point in the RECORD.

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

[From the Washington Times, Mar. 1, 1989]

A RESERVOIR OF UNTAPPED IDEALISM

(By Stephen Trachtenberg)

A presidential administration is taking shape and form—but is still in a stage of flexibility, still open to positive influence.

This is the right moment to ask ourselves, therefore, whether there are any policy options for the American future that are truly fresh and new, that can strengthen our economy and our international competitiveness, and that the Bush administration ought to be taking seriously.

Right now, it seems to me we're all agreed on exactly one point: *We'd like to feel proud of American workmanship once again.*

Whether we turn out a tangible product or an essential service, whether we are providing transportation or medical care or an education, we'd like to re-experience the conviction that "Made in America" is a guarantee no other "Made in" can match.

If the very idea of that happening seems funny to you, actually makes you smile, then that's one sign of how discouraged we have become about ourselves as a nation. That we as Americans can actually pull ourselves together, actually regain our sense of individual and collective control, seems absurd in an age of passive spectatorism, when the forces *beyond* our control are the ones we pay attention to—be they economic or ecological or military or criminal or the global combination of all of these.

What we seem to have gotten best at is *waiting*—waiting to be told about the latest model, the latest international crisis, the latest cultural trend, the latest ecological disaster, the latest emergency measure. "There's nothing I can personally do" has become, for most Americans, the hidden motto on the national flag.

Well, as the recently installed and not-yet-inaugurated president of a sizable American university located a few blocks from the White House, who has done a lot of thinking about where this country is headed, my conclusion is that we're in fact passing through a phase. It's a painful phase. It feels as if it will go on forever. But it has its limits, and those limits will put in their appearance when we actively decide it's time for them to do so.

I'm convinced that we have a reservoir of untapped dedication and idealism in these United States that is just begging to be released so that we can proceed, once again, to amaze the world with our grassroots vigor and inventiveness.

What we need if we are going to unleash our deadlocked, stalemated energies is, I believe, a compass that works: a cause in which most of us believe, a policy direction each one of us can help to further, an economic and political program that is connected (1) with the very idea of America, and (2) with America's ability to compete in the international marketplace that is now the arena of success and failure for all of the world's people.

That compass, that cause, that policy direction is the old American value known as our children.

As early as the 18th century, European visitors to the American colonies noticed that American children were more active, outspoken and inventive than their British or continental counterparts. American kids were actually allowed to take part in family discussions at a time when children in Northern Europe were seldom seen in adult surroundings and even more seldom heard.

In an age of powdered wigs and minuets, those relatively active, relatively outspoken, relatively explorative American kids, encouraged by parents who valued their growing independence, went on to form America itself—a land recognized for the past two centuries as a world center for creative thinking. To this day, professors in European universities whose classes include American graduate students often comment on how active and participative the latter are compared to those who are "native to the country," be it England or West Germany or France.

Right now we are in the middle of America's worst "kid crisis" since the founding of the Republic. From affluent suburbs to inner-city ghettoes, the percentage of kids on drugs and out of hope, lacking in parental supportiveness, alienated and self-destructive, seem to rise by the month. The bleak inner lives of so many of our children is one major reason Japanese and West European executives tend to be skeptical about our future as an industrial power. They see our growing inability to reach our kids, and to prepare many of them (especially minority children) for careers as skilled workers and managers, as setting iron limits around our ability to compete.

For the sake of our own survival and status as a nation, therefore, we would be wise to put our children and their well-being at the very top of our national agenda. We would be wise to see to it that the first question we ask about any national policy, existing or proposed, is: "How will it affect those upon whom we will soon be dependent for our personal and national well-being?" Above all, we would be wise to ask ourselves whether what our children are seeing in the media and reflecting on in class discussions of current events is moving them toward hope and away from despair—or vice versa.

We need to reach into the lives of our infants, children and adolescents, and to say to each one of them, in effect.

"You are the child of your parents. By deciding to have you, they also took upon themselves the responsibility for your growth and development into a productive, civic-minded person who in turn is responsible for himself or herself and for any children he or she chooses to have.

"But we do not expect you to be a miracle worker. Where your parents fall short, where they experience difficulty in doing their duty on your behalf, we will give them and you all the help we can. And we will do that not solely because it is the right and moral thing to do, and not solely because children have always played such a unique role in American society, but because our own economic future, our own economic self-interest, now demands that we do it."

And just to reinforce the notion that *all* of us must join together to make the 1990s into a true Decade of the Child, I will say that much of our higher education system, including my own university, stands ready

to take part in this most important of all national efforts—the struggle to make *ourselves* a future by making a future for the next generation of Americans.

BANKRUPTCY CODE AMENDMENTS

Mr. METZENBAUM. Mr. President, on March 8, 1989, I submitted S. 544, a bill to limit the modification of collective bargaining agreements subject to the Railway Labor Act. The text of the bill inadvertently did not appear in the RECORD.

I ask unanimous consent that the text of S. 544 as well as my entire statement be printed in the CONGRESSIONAL RECORD.

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

By Mr. METZENBAUM:

S. 544. A bill to limit the modification of collective bargaining agreements subject to the Railway Labor Act; to the Committee on the Judiciary.

BANKRUPTCY CODE AMENDMENTS

● Mr. METZENBAUM. Mr. President, I rise to introduce a bill to amend the Bankruptcy Code. This bill clarifies that an airline in bankruptcy should be treated the same way as a railroad in bankruptcy.

Under current section 1167 of the Bankruptcy Code, the trustee in a railroad reorganization may not alter employee wages or working conditions except in accordance with section 6 of the Railway Labor Act. It makes no sense to single out railroads for special treatment. The Railway Labor Act controls resolution of disputes involving wages and working conditions for employees in both the railroad and airlines industries. My bill amends section 1167 of the Bankruptcy Code to cover air carriers in bankruptcy in the same way that railroads in bankruptcy are now covered.

My bill also amends section 109 of the Bankruptcy Code to allow creditors to reach the assets of a bankruptcy air carrier's parent holding companies or related entities. Creditors should not be left holding the bag when an air carrier files for bankruptcy after its assets and cash reserves have been drained by holding companies and other related entities. Under my bill, if the air carrier files for bankruptcy, then the air carriers' "controlled group," including parent holding companies and related subsidiaries also must enter bankruptcy.

Controlled groups are recognized under ERISA for pension liability purposes. Relying on controlled group assets furthers the reorganization of troubled, complex entities and ensures fair treatment for creditors. This bill recognizes the realities of modern airline corporate structure and protects creditors from being abused by that structure.

It is important to note that this bill becomes effective as of the date of introduction—March 8, 1989. Making a bill effective as of the date of introduction is a common practice in the tax area. This is done to prevent parties involved in or considering transactions from changing their behavior in contemplation of pending legislation being enacted.

We are all aware that Eastern Airlines is contemplating a filing in bankruptcy. This bill will affect Eastern Airlines, its parent holding companies and related entities, the creditors of Eastern and Eastern's employees. All those parties and all other air carriers contemplating bankruptcy are hereby put on notice that the bankruptcy law changes proposed in this bill will, if enacted, be effective March 8, 1989.●

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(g) of title 11, United States Code, is amended by inserting before the period the following: ", except for section 1167, which shall apply to any collective bargaining agreement subject to the Railway Labor Act (45 U.S.C. 151 et seq.)".

SEC. 2. Section 1113(a) of title 11, United States Code, is amended by striking out "other than a trustee in a case covered by subchapter IV of this chapter and by title I of" and insert in lieu thereof "other than a debtor in possession or trustee in a case covered by".

SEC. 3. Section 1167 of title 11, United States Code, is amended by striking out "neither the court" and insert in lieu thereof "neither the court the debtor in possession,".

SEC. 4. Section 109(d) of title 11, United States Code, is amended by—

(1) redesignating subsection (d) as subsection (d)(1); and

(2) inserting the following at the end thereof:

"(2) A common carrier by air engaged in interstate or foreign commerce as described in section 181, First of the Railway Labor Act (45 U.S.C. 181) shall be a debtor under chapter 11 of this title only if every member of such carrier's controlled group of corporations simultaneously becomes a debtor under chaplter 11 of this title. Such carrier and the members of its controlled group shall be deemed substantively consolidated upon the commencement of the chapter 11 cases. A carrier's controlled group of corporations shall be defined by section 1563(a) of the Internal Revenue Code of 1986, except that the term '30 percent' shall be substituted for the term '80 percent' in such section.".

"SEC. 5. This Act and the amendments made by this Act shall be effective on March 8, 1989, and shall apply to any case or proceeding filed on or after such date."

PLANET OF THE YEAR

Mr. SYMMS. Mr. President, I rise today to bring to my colleagues' attention Time magazine's "Planet of the Year" issue of January 2, 1989. Although the issue is devoted to problems that endanger the planet Earth, an article entitled "Nuclear Power Plots a Comeback" examines a new nuclear reactor design which could go far in providing our Nation with a reliable source of tritium—a product vital to our national security—as well as providing the world with increasing amounts of cheaper, safer nuclear power.

This article by Philip Elmer-DeWitt tells us about a new nuclear facility the Department of Energy intends to build at the Idaho Nuclear Engineering Laboratory [INEL] which utilizes a design many experts have said is a fail-safe technology. Called the modular high temperature gas-cooled reactor [MHTGR], the design involves four separate units which use fuel in such small quantities that it cannot melt down under any circumstances. The design does not require human-controlled backup pipes, valves, or generators. According to Prof. Lawrence Lidsky of the Massachusetts Institute of Technology, this gas-cooled reactor design relies on the laws of nature, rather than human intervention, to prevent major accidents.

Currently, we are obviously having problems with our old reactors. Many are not on line for various reasons, and we need to upgrade them. However, it is just as important that we are able to start building new and better reactors with this safer, more advanced original design.

I am pleased that our national security and environmental needs can be met with this new technology and that Idaho will play an important role in this effort. By installing this new reactor at the INEL facility in Idaho Falls, we are not only benefitting Idaho, but also our Nation and our world. Along with the advancement of nuclear technology comes a reduced dependence on fossil fuels which may be damaging planet Earth.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

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

NUCLEAR POWER PLOTS A COMEBACK

(By Philip Elmer-Dewitt)

The primary purpose of the $3.6 billion nuclear plant that the U.S. Department of Energy wants to build in Idaho Falls, Idaho, is to help replenish America's dwindling supply of tritium, a vital component in atom bombs. But if approved by Congress, the Idaho facility could play an even more important role in the civilian use of nuclear power. For it is based on what proponents claim is a fail-safe technology, one that virtually eliminates the danger of meltdown.

Nuclear power plants have the potential of providing abundant supplies of electricity without spewing pollutants into the atmosphere. But the nuclear-power industry has failed to deliver on that promise, at least in the U.S. Even before the accident at Three Mile Island in 1979, the costs of making atomic power safe were spiraling out of control. Since that episode, the industry has been at a standstill.

What makes the failure all the more disturbing is that it was unnecessary. Engineers have the know-how to build reactors that are demonstrably safer than those now in operation. Moreover, that basic technology has been available for more than 20 years. It was largely ignored in favor of a technology—the water-cooled reactor—that had already been proved in nuclear submarines. But water-cooled reactors are particularly susceptible to the rapid loss of coolant, which led to the accidents at both Chernobyl and Three Mile Island.

All nuclear reactors work by splitting large atoms into smaller pieces, thus releasing heat. The challenge is to keep the core of nuclear fuel from overheating and melt-

ing into an uncontrollable mass that can breach containment walls and release radioactivity. One way to prevent a meltdown is to make sure the fuel is always surrounded with circulating coolant—ordinary water in most commercial reactors. To guard against mechanical failures that could interrupt the transfer of heat, most reactors employ multiple backup systems, a strategy known as "defense in depth."

The problem with defense in depth is that no matter how many layers of safety are built into a conventional reactor, it can never be 100% safe against a meltdown. At its Idaho plant, the Energy Department wants to try a different strategy. Rather than construct a giant atomic pile that requires the cooling of large quantities of concentrated fuel, designers propose to build a series of four small-scale, modular reactors that use fuel in such small quantities that their cores could not achieve meltdown temperatures under any circumstances. The fuel would be packed inside tiny heat-resistant ceramic spheres and cooled by inert helium gas. Then the whole apparatus would be buried belowground. Lawrence Lidsky, an M.I.T. professor of nuclear engineering, calls this an "inherently safe" approach: it relies on the laws of nature, rather than human intervention, to prevent a major accident.

The main problem is that the modest electrical output of smaller units makes them less economical, at least initially. But proponents argue that inherently safe plants should prove more cost-effective in the long run. Not only would expensive safety systems no longer be needed, but the units could be built on an assembly line and put into operation one module at a time, enabling utility companies to match operating capacity with demand for power.

Critics are quick to point out that no nuclear reactor, either water-cooled or gas-cooled, is totally safe as long as it produces radioactive waste. The U.S. alone has generated thousands of metric tons of "hot" debris, including enough spent fuel to cover a football field to a height of three feet. Said Sir Crispin Tickell, British Permanent Representative to the United Nations: "The fact that every year there is waste being produced that will take the next three ice ages and beyond to become harmless is something that has deeply impressed the imagination."

There are ways to cope with the waste problem. The French have pioneered a process called vitrification that involves mixing radioactive wastes with molten glass. Over time, the hot mass should cool into a stable, if highly radioactive, solid that can be buried deep underground. The U.S. is also pursuing a strategy of deep burial, but the process has become ensnared in regional politics. Some sites that might have been suitable for an underground storage facility—the granite mountains of New Hampshire, for example—were quickly ruled out because of opposition from nearby residents. The one site now being considered, a remote mountain in southern Nevada, still faces formidable political hurdles.

It is a problem that can, and must, be solved. Third World countries do not have the technical or managerial expertise to deal with the complexities of nuclear power. They will be forced, at least for the foreseeable future, to rely primarily on environmentally harmful fossil fuels. That is going to put pressure on the developed world to produce increasing amounts of cheaper, safer nuclear power.

NATIONAL ACADEMIES OF PRACTICE

Mr. INOUYE. Mr. President, on March 3, 1989, I introduced S. 511, a bill to recognize the organization known as the "National Academies of Practice."

Inadvertently the text of the bill was not printed and I have attached a copy herewith to be printed in the RECORD.

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

S. 511

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

CHARTER

SECTION 1. The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The National Academies of Practice (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

PURPOSES OF CORPORATION

SEC. 3. The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in these professions by disseminating information about new techniques and procedures.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers, and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(64) National Academies of Practice.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this charter is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall terminate.

UNITED STATES-CANADA RELATIONSHIP

Mr. KENNEDY. Mr. President, when Sunny Davis, the waitress turned protocol officer in the Goldie Hawn comedy about diplomacy, is asked about her foreign travels, she replies that she hasn't been outside this country but questioningly adds "I was in Canada once but that doesn't count 'cause it's like attached." During their recent national elections, Canadians reminded us that it does count and that we're not the only "Americans" north of the Rio Grande.

The November election of Brian Mulroney's Progressive Conservative Party enabled the historic free trade agreement between Canada and the United States to go into effect. I welcome this agreement, which I believe will bring greater prosperity to both countries.

While Americans know little about Canada and even less about the free trade agreement, Canadians know much about us and more about the agreement—it was the No. 1 issue in their election campaign, fueled by a real concern of Canadians that the agreement would result in their country being placed at an economic disadvantage with the United States.

Canada is often taken for granted by the United States—probably because we are similar in so many ways and because our few disagreements seem never to be insurmountable. Our relationship is so intertwined that it usually goes unnoticed. We share a common language and also elements of a common culture. Canadians eat at Kentucky Fried Chicken, shop at Sears, and watch American television. Americans drink Molsons and Seagrams and shop at Canadian-owned Macy's. A large number of tourists flocking to Florida's beaches are Canadian. Hockey and baseball spectators of both nations sing the words to each other's national anthem, and Montreal sports fans are just as enthusiastic about the Canadians and the Expos, as Boston fans are about the Bruins and the Red Sox.

Yet there are many differences as well—differences that date back to our early history, when our colonists sought independence from England while our northern neighbors did not. In fact, a significant increase in the English population of Canada occurred during the American Revolution, when British loyalists rejected the move for independence and instead chose to move to Canada.

Canada also has the rich tradition of the French language and culture dating back to the days of the great explorer Cartier in the late 16th century and the settlement of New France by Champlain in the 17th century. Canadians today put special value on their sense of community, which is evident in Canada's social services network, including universal medical care, and a recently announced multibillion-dollar daycare program. This emphasis is enshrined in the Canadian Constitution, which calls for "peace, order and good government."

I hope that the new free trade agreement will foster a greater understanding of our northern neighbor. Canada is our largest trading partner, buying twice as much from us as the Japanese. This $170 billion annual trade is the single largest trading relationship in the world. Canada is the No. 1 host country for United States foreign investment and the United States is the No. 1 host country for Canadian investment.

Canada also serves on the U.N. Security Council, and the Canadian contribution of more than 80,000 troops to 16 different U.N. peacekeeping forces has been a substantial factor in the success of those forces and their receipt of the Nobel Peace Prize for 1988.

Most important, Canada is a trusted and valued ally of the United States and a partner in the defense of North America. We are proud of this relationship, and we must work hard to make it even stronger, to the mutual benefit of both our nations.

Mr. President, last month Derek H. Burney became the new Ambassador of Canada to the United States. I believe that his remarks on that occasion will be of interest to all of us in the Senate. Mr. President, I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF THE AMBASSADOR OF CANADA DEREK H. BURNEY UPON THE OCCASION OF THE PRESENTATION OF HIS LETTER OF CREDENCE FEBRUARY 7, 1989

I have the honour to present to you a letter from the Governor-General of Canada, Jeanne Sauvé, accrediting me as Ambassador of Canada to the United States.

Mr. President, to a world in which ignorance and hunger still too often mock human values and in which hostility and conflict still too often impoverish affairs between nations, the relationship between Canada and the United States is a source of inspiration. Shared ideals and democratic institutions are its foundation. The friendship and kinship of millions of Americans and Canadians are its strength.

Canada and the United States are at an exciting stage in the evolution of this model relationship. Our historic free trade agreement is now coming into effect and we have a shared interest in making it work.

The agreement holds the promise of substantial economic benefits for millions of Canadians and Americans. For our consumers, it means lower prices. For our businesses, it increases confidence and predictability. For our economies, it means enhanced competitiveness and better jobs. For our two governments, it reduces friction and misunderstanding.

As well, the agreement signals to the international community that, as partners in the world's most important bilateral trading relationship, Canada and the United States are determined to roll back protectionism and to open new avenues of international commerce.

Mr. President, the essence of being Canadian springs from the forests and lakes and plains and oceans of our vast country. The natural environment is the mystical source of our nationhood and of our pride as Canadians.

Your comments during the past few months on the need to address environmental issues have been warmly greeted in Canada. Canada and the United States have a long and constructive history of working together to preserve our shared environment, starting with the visionary Boundary Waters Treaty of 1909. We have set an impressive standard of international cooperation.

Acid rain is the one anomaly in our otherwise remarkable record. An important part of my instructions from the Prime Minister is to elicit effective action by the United States to bring about specific reductions of transborder flows of acid rain pollutants within a fixed time. A firm priority objective for Canada is a joint commitment to that end enshrined in a bilateral accord.

Our cooperative defense relationship is basic to the security of our two countries. We have fought side by side in two world wars and Korea. Together, through NORAD and other arrangements, we defend North America. Together, through NATO, we help to defend Europe.

The Canadian Government has embarked on an extensive defense modernization program designed to upgrade the capabilities of the Canadian armed forces to carry our fair share of the NATO burden. Canadian industry, too, through bilateral agreements renewed by our two governments in 1985, is contributing to the viability of the North American industrial base.

Mr. President, the global landscape proffers challenges to both our countries: the Soviet Union's search for new solutions to its worsening economic problems offers the prospect of a more enduring peace; the integration of the economies of our Western European allies will have consequences for both our countries; the strong economies of Japan and our other Asian trading partners present us with a competitive challenge, as well as substantial opportunities.

Meanwhile, other countries, many in this hemisphere, are struggling under enormous debt burdens. And around the world, people still live in poverty and despair.

My government believes that, as two distinct and democratic societies in North America, we have a boundless capacity to work with one another and to contribute to world peace and prosperity.

In pursuit of these objectives, Prime Minister Mulroney looks forward to welcoming you to Canada in the very near future. The Secretary of State for External Affairs, Mr. Clark, warmly anticipates regular and fruitful exchanges with Secretary Baker.

As Ambassador, I take up my duties in a climate of confidence and at a time when our respective governments have strong, new mandates. I welcome the opportunity to stimulate our unique relationship. I will do my utmost to fulfill the expectations of my government, I ask for the full support of your Administration.

EXECUTIVE SESSION

DEPARTMENT OF DEFENSE

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having arrived, the Senate will now go into executive session to resume consideration of the nomination of John G. Tower to be Secretary of Defense, which the clerk will report.

The assistant legislative clerk read the nomination of John Goodwin Tower, of Texas, to be Secretary of Defense.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished majority leader. Early last evening, I proposed a number of things: First of all, a unanimous-consent request that Senator Tower be permitted to come to the Senate to respond to questions and make a statement, whatever. The majority leader, for reasons he felt were adequate, objected to that. I do not quarrel with that. It is certainly within his right.

That could be followed up with a privileged motion, but, as I said last evening, one thing I have learned to do around here is to count. It seems to me that would not be productive. It would not give Senator Tower the right we hope he might have.

I then proposed what some have referred to as sort of a 6-month trial period after talking with Senator Tower, after at least advising the President, and advising the chief of staff, John Sununu, at the White House.

It was our hope that that good faith effort might convince some that this man is certainly deserving of that chance, and that it would be another indication of good faith on the part of the nominee and on the part of the President—that coupled with Senator Tower's pledge on national television, sobriety pledge, which he said he considers the same as his oath under the Constitution to carry out his duties. The majority leader was kind enough to say that he would consider it. The chairman of the Armed Services Committee said he would sleep on it. I have now had an opportunity to visit with the majority leader, and also briefly with the chairman of the Armed Services Committee.

The bottom line in this place is how many votes do you have? How many votes can you change? Can you change any?

I think it is fairly clear, notwithstanding what was a good faith shot, it is not going to change any votes. The majority leader was kind enough to check with a number of Democrats. I think it is his view that—he has not checked with anyone—there is probably no change.

But I would say, as I said last evening, the bottom line in our view is—it is our view, and from the start has been fairness to this nominee, not because he is a former colleague or just because he is a nominee but rather than spend the day debating 6 months versus whatever—it is not going to change any vote. I think it is best that we spend the rest of the day debating the merits on this side of John Tower to be Secretary of Defense.

I had a discussion with Senator Tower this morning. He appreciated the effort but indicated that it was not going to change any votes. He would rather we spent this last day debating the nomination, period, rather than get off on some side track of why it would not work—some problems, whatever, some would raise might be valid.

So I am authorized at Senator Tower's request to withdraw that proposal. And I do so, so that we may spend—hopefully until around 4 or 4:30, when we agreed to vote at that time—the balance of the day. We have a request for time of about 3 hours on this side, and it will not all be used, but about 3 hours.

I believe I know what the result will be. But there is still a number of my colleagues who want to make statements, and want to make statements for the Record. There are certain things that have been stated on the floor that we want to clarify for the Record because in the final analysis this debate, sometimes with acrimony, may be important later on. It may be important to Senator Tower. He may not become Secretary of Defense but I think he wants the Record to reflect the facts as much as we can. It is pretty difficult on both sides, and much material is under a rule of secrecy.

So I think it is best since no votes will change that we spend our time doing that today. Senator Tower did ask me to convey his thanks to everyone. I believe Senator Tower knows, whether we are willing to admit it or not, that this has sort of become a partisan issue. It is essentially going to be a party line. I guess for someone who has been in politics for 24 years that is probably easier to accept than if we were debating some fine issue that fell one way or the other by a very close vote.

Obviously, he is disappointed; not bitter, but disappointed. Obviously, we hope something might happen today to change a couple of minds, maybe three. But that is probably doubtful.

So we are prepared, I say to the majority leader, to enter into a time agreement and to continue the debate, hopefully at the same high level it has been, or maybe even higher, and then vote at some convenient time this afternoon.

Mr. MITCHELL. I thank the distinguished Republican leader very much. We discussed this privately just prior to his remarks. It is my understanding that staffs on both sides are now soliciting the consent of membership on both sides to proceed. I, on behalf of the Democrats, would be prepared to propound a unanimous-consent request.

Mr. DOLE. We are ready.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I propound a unanimous-consent request, that the Senate, at 10:30 this morning, having resumed debate on the nomination of John Tower to be Secretary of Defense, there now be a time agreement for a total of 5½ hours of debate, with 2½ hours under the control of the Senator from Georgia [Mr. NUNN] and 3 hours under the control of the Senator from Virginia [Mr. WARNER], or their designees; provided that no motions be in order, and that at 4 o'clock this afternoon, the Senate proceed, without any intervening business, to a 15-minute rollcall vote on the nomination; provided, further, that upon the disposition of the nomination, a motion to reconsider be laid upon the table and the President be immediately notified.

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

Mr. MITCHELL. Mr. President, I further ask unanimous consent that it be in order to request the yeas and nays on the Tower nomination at this time.

The PRESIDING OFFICER. The nomination is before the body. It is in order to request the yeas and nays.

Mr. MITCHELL. 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.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF WILLIAM BENNETT

Mr. MITCHELL. Mr President, I inquire of the Republican leader whether he is prepared to proceed to a unanimous-consent agreement on the nomination of William Bennett.

Mr. DOLE. We are.

Mr. MITCHELL. Mr. President, I ask unanimous consent that if the Committee on the Judiciary reports the nomination of William Bennett to be the Director of National Drug Policy, the Senate, today, immediately following the vote on the nomination of John G. Tower, proceed to the nomination of William Bennett to be Director of National Drug Policy, under a time agreement of 30 minutes, equally divided between the Senator from Delaware [Mr. BIDEN] and the Senator from South Carolina [Mr. THURMOND]

or their designees; provided that no motions be in order, and that following the use or yielding back of time, the Senate proceed, without any intervening business, to a 15-minute rollcall vote on the nomination; provided, further, that upon the disposition of the nomination, a motion to reconsider be laid upon the table, the President be immediately notified, and the Senate return to legislative session.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that it now be in order to request the yeas and nays on the Bennett nomination.

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

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the Bennett nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOSCHWITZ addressed the Chair.

Mr. MITCHELL. Mr. President, I have just been advised that a Republican Senator has lodged an objection to any committees meeting today. I merely say that if that objection continues, the Judiciary Committee will not be able to meet to report Mr. Bennett's nomination, and of course we would not act on it today. I leave that up to the distinguished Republican leader.

We are prepared to proceed to the nomination, if the committee can meet and report it. If one of the Members objects, obviously, we cannot do so, and we would take it up some time next week.

Mr. DOLE. I think it may be just one committee to which the objection relates, not the committee with jurisdiction of the nomination.

Mr. MITCHELL. Then, I suggest that we permit the Senator from Minnesota to proceed with his remarks, and we can then determine whether or not the committee will be able to meet today.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Who yields time? The time is now controlled, under the unanimous-consent agreement.

Mr. WARNER. Mr. President, I yield the distinguished Senator from Minnesota such time as he may require.

Mr. BOSCHWITZ. Mr. President, I say to the majority leader that I have not read the debate with respect to the nominations of 1977 that President Carter brought to the Senate, but I notice that there were 12 votes. Nine of them did not require rollcall votes, so presumably on nine there was little or no debate, and it was fairly quick. On three, there were rollcall votes.

On one, Secretary Califano, it was 95 to 1. Senator PACKWOOD voted no, and I do not know why. He is a reasonable fellow.

On the Marshall nomination, to which I think the majority leader alluded, the vote was 74 to 20, and there were Democrats and Republicans alike who voted against him. I was not here, so I do not know what the debate was on or the reasons for the vote.

On the Bell nomination, it was 75 to 1, apparently a different core of Democrats. Some Democrats apparently felt that he was too conservative; and for some Democrats, Marshall was too liberal, I gather. There were 15 or 16 Republicans who voted against each.

I will take a look at those nominations and the procedures. I know that the majority leader made quite a point of that in his debate, but I point out to him that of the 12 Cabinet positions, 9 did not even require a rollcall vote, and on the 3 that did, I do not know how long the debate went on, but the debate seems to have been on issues on substance. The nature of the debate was certainly not the nature of the debate that has occurred here in the past 10 days or so, and I presume that it was not particularly divisive, because it was just a debate on substance, a debate on issues.

I yield to the majority leader.

Mr. MITCHELL. Mr. President, I have no further comment, except to note that there was also very extensive debate on the position of chief arms control negotiator, which, while not a Cabinet position, I think the Senator will agree was very important. I do not know whether he referred to that in his remarks, because I was distracted on another matter while he was talking. The Senator might wish to take a look at my remarks of yesterday.

Mr. BOSCHWITZ. I have that before me. I know that he was confirmed for two positions—the chief negotiator of SALT, which, as the majority leader has pointed out, was not a Cabinet position, and the Director of ACTA, which is not a Cabinet position.

It is interesting that the votes were different. Twelve Democrats and twenty-eight Republicans voted against him for SALT negotiator. But that clearly was on the basis of what he stood for. This debate has not been about what Senator Tower stands for.

On the ACTA nomination, there were 5 Democrats and 24 Republicans, including Senator Tower, in both instances. But that again was substantive debate.

Regretfully, this has not been a substantive debate, and that, of course, is what has been so damaging with respect to him.

Mr. MITCHELL. And I accept that.

I just, at the risk of redundancy, make the point that what the Senator calls substantive debate represents the point of view that Senators are entitled to reject Presidential Cabinet nominations solely on the grounds of policy disagreement, which is a much more expansive view of Senate authority than Senators who now oppose the Tower nomination are advancing.

Second, I was not here at that time, but I understand there was a lot of personal debate about President Carter's nominee to the Central Intelligence Agency which nomination was subsequently withdrawn prior to a vote.

I think we could go back and forth all day. But I think the Senator makes a good point and I appreciate it.

(Mr. SHELBY assumed the chair.)

Mr. BOSCHWITZ. He should not have withdrawn that nomination, and interestingly, that nomination with respect to the CIA withdrawal by the President did considerable injury to the Presidency at an early date, as I recall it, and which is one of the reasons it was not done in this case, I believe.

Mr. President, prior to coming to the U.S. Senate I was a businessman, and this has been quite an adjustment coming to the Senate. Even though I have been here 10 years, the adjustment is still under way.

I was used to getting things done. I was used to running my own show.

Lawmaking moves very glacially, as a matter of fact. Compromises are made on just about every comma and every dot and every cross of a t.

I once told my friend Senator SIMPSON that the trouble with this place is that there are 99 other people who want the final word, the last word, when I should have it, and I was accustomed to having it in my business career and I was accustomed to moving rather rapidly and quickly. The transition to this glacial process here in the Senate has not been an easy one.

That is the real problem in my judgment with the Tower nomination. It is deeply partisan in nature, as I have pointed out before in my discussions with the majority leader, really deeply partisan, in my judgment. It will heighten distrust among the Members and it has heightened distrust in a way that I had not seen before here in the Senate. The lines have been drawn in this matter and the suspicions have been considerably deepened. It is unfortunate.

My problem is, yes, it appears that Senator Tower is not going to make it but the present glacial progress of the Senate on legislation is going to be slowed even more, and it is going to be harder to function here, at least for quite some time.

Yes, it is reparable, I suppose, over some time, but some of the hurt of this entire debate is not going to go away, and the glacial progress is going to become even slower, and that is too bad for the country and certainly, for a businessman like me, it will require a further adjustment.

I saw the distinguished Senator from Nebraska, Senator EXON, and Senator DECONCINI, on TV this past Sunday, and they said it will pass; this is just another fight in the Senate; that we are all professionals, and indeed we are; that things will return to normal, and you cannot argue with that, over a long, long-term view. But things are going to be slow in returning to normal because a battle of this nature has not before been fought on the floor of the Senate, at least in the 10 years that I have been here.

So I do not share the belief because it overlooks the absolutely extraordinary nature of this battle. This battle has been extraordinary in many ways, but it is extraordinary because no incoming President, rejected, none, zero, in the 200-year history of the Republic.

The nominee is a former Member of the Senate, for 24 years no less. Seventy Members of the U.S. Senate, as many of my colleagues have said, have served with him and none, not a single one, has seen him inebriated or in conduct unbecoming the office.

In addition, one and all agree, everybody agrees that Senator Tower is enormously well qualified. In fact, we confirmed him for another post by voice vote in recent years, and presumably there was an FBI report and some of these things came out, but yet we confirmed him without opposition by voice vote, just as I pointed out we confirmed prior to my arriving here nine members of the Cabinet in 1977 by voice vote. There were only votes on three members of the Carter Cabinet, and not long ago when the Iran-Contra affair just consumed the Senate and consumed the Nation for many, many months, who was called upon to lead a Commission to investigate the activities of the White House? John Tower. The Commission became named the Tower Commission. And it was a hardhitting report that he put out, a much-lauded report.

Some on our side wondered why he was so tough on the President but indeed he was widely lauded, and when we needed someone to take a tough look at a very difficult situation John Tower was called upon and as he was called upon by a number of Presidents over a period of years.

Now, some of the Senators say that he should be rejected but not at all on the basis of philosophy, and I see that yesterday in the paper it was pointed out that John Tower voted "no on several confirmations." None of those votes, however, were on anything other than philosophy. They were not on the kind of stuff we have seen in the so-called FBI report to which I will allude in a few minutes.

So I say to my friends and my Democratic colleagues, pardon me if I reached a conclusion that this is a partisan battle. In fact, I believe it is a harshly partisan battle, a battle that is going to leave some deep and some very lasting scars, particularly with respect to some Senators, a battle that is going to slow the work of the Congress even from its present glacial pace so that the whole Nation is going to suffer because of it.

I say to my friends, do not expect things to simply return to normal after this battle concludes—eventually, sure. I mean, time I suppose heals most every blow. But it is going to be a time, and I think some aspects of this battle, particularly with respect to some of our colleagues, are not going to heal entirely.

Because I feared this whole scenario developing, about 2 weeks ago I sought out the distinguished majority leader and I went to his office and we sat and we talked about 20 minutes about what was developing at that point.

I went to him because frankly our side was full of hope. There were two new Georges on the scene, I said, and each is on a honeymoon, and both honeymoons were about to end. We were hopeful of better and smoother, less partisan days in the U.S. Senate because both Georges were reaching out. The inauguration of the President and the election of a new majority leader could truly allow a new and less strained relationship in not only the executive, but in the Senate as well.

The majority leader, Senator MITCHELL, was holding extended meetings with small groups from this side of the aisle, and I compliment him for it. I presume that those kinds of meetings have now ended. In this atmosphere, they would hardly be truthful. I hope that he picks them up again, because they can lessen some of the tension that has now developed here in the Senate.

The President was having bipartisan groups over to the White House. I went over to a couple of such meetings, one on our foreign affairs, and one where the President just held out his hand in friendship to approximately 2 dozen or 30 of the more senior Members of the Senate and the Senate leadership. One regarding bipartisan foreign policy had Members of the House and Members of the Senate there, the group that Senator DANFORTH alluded to before, a group that includes Senator DANFORTH and myself and Senator KASSEBAUM on this side of the aisle, and a group that includes Senator BOREN, Senator BRADLEY, and Senator NUNN on the other side of the aisle. And we went there, with the exception of Senator NUNN who was occupied perhaps in these matters, and talked about bipartisanship in foreign policy. One evening the President had us over, about 30 of us, and he included a tour of the second floor of the White House, the living quarters, where few of us had never been before. Indeed, Senator KENNEDY who was along that evening noted that he had not been up to the living quarters of the White House since 1963.

So, indeed, this was reaching out not only by the President but this was also reaching out by the new majority leader and better times seemed to be ahead.

But this debate has ended that and, indeed, there will be an unfortunately higher level of partisanship, higher level of suspicion than had existed before. Clearly, George Bush and GEORGE MITCHELL were reaching out. I told the majority leader what a shame it is that this new beginning should all be lost, but apparently that must now occur.

Let me talk for a moment, if I may, about the FBI report. My colleagues tell me it should not be called a report because there is no evaluation in it. It is just a collection of statements, of tips, of other things. So let me talk about the FBI record that I read and that was voluminous indeed.

And I talk about it, frankly, as a newcomer. I have never been a prosecuting attorney. I have never been an attorney general. I am a businessman, as I said at the beginning of this, and so I did not have occasion to read FBI reports.

Frankly, after reading them, I was shocked. I did not know that those kind of things were collected, that kind of stuff was put into writing.

I thought the guys in the FBI really knew something, and I do not mean to say they do not. But in this report, it was just really the biggest collection of trivia that I have ever seen. It was the biggest collection of anonymous tips. I mean, somebody calls up and says, "I saw John Tower do this and this on such and such a day." Or, in that time period; they were not even specific about the day. And they say, "What is your name?" "Oh, I can't tell you my name." But all of it is put into the report, even when it comes in in that way about a man who has served his Nation for 30 years and a man who has indeed achieved so much for the United States.

Then there were items of total hearsay—"I heard so and so say this," and even some of those were not identified. Anonymous heresay on top of everything else. And here in this country, with our freedoms, in our democracy, that kind of material goes into a report about someone who is going to become or could have become the Secretary of Defense. It was the biggest

collection of junk that I have ever seen. It was demeaning.

As a matter of fact, I was shaken after I read it, truly shaken. I did not know that that kind of material was put in writing by an agency of Government in the United States.

And on that kind of stuff, that kind of stuff, we are making a decision. It is that kind of stuff that my friends on the other side rely upon and say, "Well, the man has a drinking problem." No one has gotten up and said, "I disagree"—well, I guess I have heard some of my colleagues say, "I disagree with him, but that is not the reason for my objection."

The reason for the objection is this trivia, these unproved allegations. And, indeed, that is a sad day for the Senate of the United States and it is no wonder that this whole debate is driving a wedge into the Senate that has not existed before.

This kind of stuff is not the material on which we should make a decision. This kind of stuff is the stuff that you use to ruin people's reputation if you are that kind of a person. And that is a plural, because not only John Tower is named but a number of other people are named in this report. And it would be a shame, frankly, if the report were printed and still more people hurt by its publication.

I must tell you again, Mr. President, I really did become quite emotional upon reading this. I am just a man who is accustomed to reading facts and figures and numbers, not innuendo or anonymous reports or partisan shots, or some things that have turned out to be outright lies, as we have seen reported in the report. Unfortunately, they get reported in the press even before they get put into the FBI report. Like the stewardess who was reported yesterday or the day before. Before we even looked into who she was or whether or not there was any substance to it, it was splattered all over the front page of every newspaper and every 10 o'clock news show in the country.

That is how John Tower has been tried. That is how he has been evaluated. That is why Senators on our side of the aisle say that his rights have not been properly protected, that his rights have not been cherished as we do cherish rights here in the United States.

But I must listen to my Democratic colleagues, some of whom I deeply respect, talk about rejecting John Tower on the basis of this perception. They have talked about perceptions, perceptions raised by hearsay, by anonymous tips, by anonymous hearsay tips, of all things; about a man that 70 of us have served with in the U.S. Senate; about a man that none of us have ever seen do the kind of things that he is accused of.

And, Mr. President, we live in fairly close quarters here. We live in fairly close quarters here in the Senate. It is not the kind of relationship that might be found in a more normal type of setting. We travel together. We are here sometimes around the clock together. And in the event that these kind of aberrations in character were to occur, we would see them sometimes of one another.

Senator COHEN told me about a book that he wrote shortly after coming to the Senate; that one of his first impressions was seeing, as a matter of fact, the Senator from Georgia helping one of his colleagues who was clearly unable to help himself because of an inebriated state.

Yet I am asked, after looking at all of this and seeing the FBI report and listening to some of the other debate, yet I am asked to believe that this is not a partisan fight. It is partisan, Mr. President, and it is harshly partisan, unfortunately. That is why this battle is not going to be just over and behind us, but it is going to linger and it is going to linger for a long time.

"Well," I am told, "what about you Republicans? You are all voting for him. Isn't that equally as partisan?" As though my friends on the other side expect we Republicans to vote against the nominee of their own President. It certainly should not be a surprise that Republican Senators will support the nominees of a Republican President. So those who tell me on the other side of the aisle that this is proof of partisanship, then indeed I say to them it is not proof of partisanship at all that we vote for the nominee of a Republican President.

Then they say, "Well, look at this, 100 to zip on all of these other nominees that came before us. Doesn't that show that we are indeed bipartisan in spirit?"

Well, since the majority leader brought up the 1977 confirmations, I say once again that nine of those confirmations took place on voice vote; that this is not unusual that the nominees of a President should be accepted unanimously. And, indeed, in 1977, the period to which the majority leader has alluded so often in his comments, 9 of the 12 appointees to the Cabinet were not even voted on on a rollcall vote. They were just accepted by unanimous consent by a voice vote. So that there was no opposition from this side at all on 9 of the 12 nominees during the Carter period. It is not unusual.

This is a partisan battle, a harshly partisan battle, unfortunately, and it is going to leave some scars.

As I said, Mr. President, now for the first time we stand close to the precipice of rejecting a man who has been nominated by a new President for the Cabinet. That is a first in the history of the Republic. It is a first in the history of our Republic that we will reject a former Member of this body. I am not saying that a former Member of this body should be automatically accepted. It is the first time I believe that we are rejecting a man not on the basis of principle, not on the basis of principle of his beliefs, but rather on a bunch of junk in the report that says, mostly unproven, that he has acted, in personal matters, in a manner not befitting the job that he is now seeking to assume.

So it is a shame, Mr. President. We are not improving the standing of the U.S. Senate, either among ourselves or, in my judgment, for the Nation as a whole.

We all agree that John Tower is competent. We all agree that none of the 70 of us who have served with John Tower in the U.S. Senate, some for more than two decades, that none of us have seen him do any of the things that he is accused of doing. He is a man who served in the U.S. Senate for 24 years, a man who, in making a living upon leaving public service did no more, perhaps even less, than we do in accepting spending honorariums from those who seek to influence us.

I respectfully point out, Mr. President, that in a single year members of the Armed Services Committee took a half million dollars in such honoraria.

So, it is with considerable regret that I must say that as we are now in the concluding hours of this battle, that the Senate in my judgment has hit a new low and that we will take some time to recover from it; that this new beginning that we had an opportunity to achieve, both with a new President and with a new majority leader, is regretfully going to have to be laid aside.

It is with sincere regret, Mr. President, that I see my friend John Tower going down to defeat. It looks like that is going to happen. Of course, there are a few hours left and perhaps some minds will still change. But what it has done to the Senate and what it has done to the Nation are unfortunate and I hope for better days ahead in the U.S. Senate.

I yield the floor.

Mr. NUNN. Mr. President, we have had several days of vigorous debate on the nomination of John Tower to be Secretary of Defense. It has been a difficult debate, not only because the main body of information cannot be discussed in open session, but also because it involves a former colleague who worked closely with many of us over a long period of years.

But the unpleasant nature of our task does not diminish our responsibilities to the people who elected us—and one of the primary duties of Senators under the Constitution is the responsibility for advice-and-consent on the nominations made by the President.

Today, I would like to briefly place the debate on Senator Tower's nomination in the context of our constitutional duties.

The constitutional scholar Edward Corwin has called the separation of powers of our system of Government one of the "great structural principles of the American constitutional system * * *. Corwin underscored the importance of this doctrine to our most basic rights by emphasizing the influence on the framers of writers such as Montesquieu, who had written that "[w]hen the legislative and Executive powers are united in the same person, or in the same body of magistrates, there can be no liberty * * *."

Louis Fisher, a leading authority on the Constitution, has recently noted that the doctrine of separated powers embodied in our Constitution is not based simply on notions of divided power, but rather reflects the manner in which the framers sought to avoid "a political system so fragmented in structure, so divided in authority, that Government could not function." As Supreme Court Justice Robert Jackson observed in the Steel Seizure case in 1952: "While the Constitution diffuses power the better to secure liberty, it also contemplates that the practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity."

The Senate's advice-and-consent role in the appointment process reflects two competing views at the Constitutional Convention. One group favored placing the entire power of appointment in the Executive in order to establish accountability and avoid diffusion of power. A second group sought to place this power in the legislature in order to avoid undesirable concentrations of power and ensure broader consideration of possible candidates.

Near the end of the convention, a compromise was reached. This compromise resulted in the language that has governed the appointment process for over 200 years: Article II, section 2 of the Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for * * *.

As we have heard often during this debate, there have been only eight Cabinet-level nominees rejected by the Senate in 201 years under the Constitution. Although this figure fails to take into account the number of rejections for judgeships and executive branch positions other than Cabinet posts, the fact is that the Senate does not frequently reject the nominations of the President. So far this year, the Senate has confirmed 15 nominations by President Bush with only 1 negative vote—and that 1 negative vote came from the Republican side of the aisle. In my 16 years in the Senate, I have voted for 64 Presidential Cabinet-level nominees, and have opposed only 2. In so doing, I have always taken seriously the Hamiltonian concept of a strong Executive—but even Hamilton recognized that there would be cases involving "special and strong reasons for disapproval."

Mr. President, I think we should remember that the fact that only eight Cabinet-level nominees have been formally rejected does not reflect the number who withdrew—or were not even nominated—because they could not be confirmed.

Simply because a nominee does not withdraw does not mean that the Senate must accede to the President's desires. As our former colleague from Maryland, Senator Mathias, noted during the 1977 debate on the nomination of Griffin Bell to be Attorney General:

> What does it mean that the Senate is going to give its advice and consent to the nomination of Griffin Bell to be Attorney General? Does it simply mean that after the President of the United States has had an opportunity to exercise the broad and plenary power to choose from among 215 million Americans, that we then merely have to ascertain whether his choice is a convicted felon or a committed lunatic, and if we find that that is not the case, we then have to automatically grant confirmation?
>
> Well, I would say certainly not * * *. It seems to me that we have a responsibility under article II of the Constitution to take part in what is, in effect, a two-pronged appointment process in which the power of appointment is clearly divided, one part being the power of nomination, which is assigned to the President, and the other part being confirmation, which is assigned to the Senate.

Mr. President, Members should remember that the debate over this nomination is not a debate over a normal Cabinet position. It is a debate over whether the Senate should give its advice and consent for the nominee to serve as Secretary of Defense—a position with unique and very critical responsibilities in the executive branch.

There are some who have said in the past weeks that the President has a right to appoint whomever he wants to serve in his Cabinet, and the Senate should go along with the President's wishes. Senator DANFORTH spoke very eloquently earlier in this debate about the extent to which the Senate should defer to the wishes of the President to choose his Cabinet.

Much has been made of the fact that the Senate has failed to give its advice and consent for only a small number of Cabinet nominees in the past. President Bush said yesterday that this debate involves the right of the President to have who he wants in his administration. Senator Tower seemed to forget his own record in the Senate of opposing Presidential nominations when he said over the weekend that the question of his nomination has become whether or not the President, when he selects people of professional competence, can be permitted to have his own choice of people to serve under his administration in key policymaking and administrative positions.

I am very mindful of the prerogatives of a President to choose his own advisers. But I don't agree at all that with the apparent view of some that the Senate's advice and consent role should be little more than a rubber-stamp. I don't think most Members of the Senate agree with this view either.

Twelve years ago, the Senate was in much the same position that it finds itself in today: a newly elected President had submitted his nominee to the Senate for an important and sensitive national security position. The Senate had a vigorous debate over President Jimmy Carter's nomination of Mr. Paul Warnke to be the Director of the Arms Control and Disarmament Agency and chief negotiator at the strategic arms limitation talks in Geneva.

The Senate conducted separate votes on Mr. Warnke's nomination to be Director of the Arms Control and Disarmament Agency and to be the chief negotiator at the strategic arms limitation talks. Although I voted in favor of Mr. Warnke's nomination to be Director of the Arms Control and Disarmament Agency, I voted against his nomination to be our chief SALT negotiator. I do not remember being called partisan or power grabbing at the time I cast that vote against the nominee of a newly elected President from my own State and my own party to a sensitive national security position.

As a matter of fact, there were some very persuasive statements made by Senators during that debate on Mr. Warnke's nomination on the Senate's role of advise and consent, particularly with respect to Presidential nominees for national security positions. Some of that debate 12 years ago has a direct bearing on our debate today.

During that debate, Senator THURMOND reminded the Senate that:

> Under the advice and consent powers provided in the Constitution the Senate has a well-defined responsibility to approve or disapprove the nominations of the President. It has been my long-held view that a President is entitled to have as his advisors in the executive branch those individuals he chooses. This position should apply, except in those extraordinary cases where the Senate finds, in exercise of its advise and consent powers, that the individual is especially unsuitable for the duties chosen.
>
> In those instances, the Senate has an equal responsibility to oppose such nominations and the history of the Senate is replete with just such examples where a Presi-

dent has been denied his choice under the advice and consent powers provided in the Constitution.

The nominee himself, Senator Tower, was one of the leaders of the opposition in the Senate to Mr. Warnke's nomination. During the debate Senator Tower pointed out that:

The suggestion has been made that the people should trust the President to make the right appointment. I think that ordinarily we do around here. But, after all, the Constitution has vested in us the responsibility for advice and consent, and it is one that we should exercise.

Senator Tower went on to say that:

There is too much at stake here to impute dishonest motives or irrational motives to one side or the other in this debate.

At another point in the debate, Senator Clark of Iowa questioned how some Senators who opposed Mr. Warnke could, at the same time, claim they supported newly elected President Carter. Senator HATCH responded to this argument by saying:

I might also add, with regard to Mr. Clark's comment of whether we are supporting President Carter, you bet we support President Carter. One of the best ways to support President Carter is to try to discourage him from putting people into office and putting people into positions of power and leadership where they do not belong.

We have an obligation to do that in the Senate, and I can tell you right now I stand behind the President.

Finally, the distinguished Republican leader Senator DOLE had some comments on Mr. Warnke's nomination 12 years ago. Senator DOLE said:

In conclusion, I feel that the decision on confirmation of Paul Warnke as chief U.S. negotiator will bear a significant impact upon the status of the American defense capability in the years to come. Even more than a single decision by this body on a specific budget request for a strategic weapon, this decision will have a lasting imprint upon the full aspect of the American defense posture for years to come. The issue goes beyond any simplistic arguments about sparing the administration embarrassment over a nominee, and beyond accusations of partisan politics. We are contemplating the appointment of a high-level official to represent our interests against Soviet designs on our Nation's security. The Senate must weigh this decision in that light, and act with the sobriety and wisdom which the decision deserves.

Senator DOLE's statement of 12 years ago applies almost exactly to this debate. The only difference between our debate today and the one we had 12 years ago is that President Bush has nominated John Tower for a position that is far more critical and sensitive to our Nation's security than the position to which President Carter nominated Paul Warnke in 1977.

Today we are debating John Tower's ability to serve second only to the President in the chain of command for all of our nuclear and conventional military forces.

Today we are debating John Tower's ability to set the highest example of leadership for our men and women in uniform.

Today we are debating John Tower's ability to serve as the senior official in the Department of Defense for the Uniform Code of Military Justice and all of the other rules and regulations governing professional behavior and standards of conduct.

Today we are debating John Tower's ability to restore the public's confidence in the fairness, equity, efficiency and integrity of the Pentagon's acquisition system.

I have said before in this debate that there is much in John Tower's record to commend. I believe John Tower is a loyal, patriotic American who has a solid record of public service. I know that he is dedicated to our Nation's security.

After my own review of the record, however, I have concluded that John Tower should not be confirmed as Secretary of Defense. This is a highly personal conclusion for me. I recognize that people of good will can reasonably come to an opposite judgment.

I do believe, however, that if Senators weigh the evidence of this case with objectivity and dispassion, they will conclude that President Bush would be best advised to find another nominee. In three areas—use of alcohol, behavior toward women, and conflict of interest—John Tower falls short of the high standards which must be demanded to those who would bear the awesome responsibilities of Secretary of Defense.

Mr. President, I ask unanimous consent that two articles from today's Washington Post be included in the RECORD at this point.

The first, entitled "Placing a 'Check' on the President," discusses the historical context of the Senate's role in the advice and consent process.

The second, entitled "How Tower Used His 'No' Vote," discusses Senator Tower's record with respect to the confirmation of Presidential nominees while he was in the Senate, including several instances where Senator Tower opposed Cabinet-level and other Presidential nominations in the Senate.

HOW TOWER USED HIS "NO" VOTE: EX-SENATOR NEVER SHIED AWAY FROM SCRAPS OVER NOMINEES

(By Dan Balz)

"The suggestion has been made that the people should trust the president to make the right appointment," the senator said during floor debate over a controversial national security nomination early in a new president's first term. "I think that ordinarily we do around here. But after all, the Constitution has vested in us the responsibility for advice and consent, and it is one that we should exercise."

The man who spoke those words, then-Sen. John G. Tower (R-Tex.), never shied away from exercising that responsibility—or from questioning the wisdom of president's appointments. He got into a number of scraps over Cabinet and sub-Cabinet nominations during his 24 years in the Senate—although none was as bitter as his own nomination to be secretary of defense has become.

Tower made his comments about the Senate's role 12 years ago during debate over President Jimmy Carter's nomination of Paul C. Warnke to become head of the Arms Controlse and Disarmament Agency and chief SALT negotiator.

Tower opposed that nomination unsuccessfully—as he had done in several other cases. In January 1977, he opposed Carter's nomination of fellow-Texan Ray Marshall to be secretary of labor. During the Ford administration, he opposed the nomination of William J. Usery to be secretary of labor. And in 1963, he opposed the nomination of Paul H. Nitze to be secretary of the Navy.

Two factors generally guided Tower in his decision to oppose these various nominations his belief that the Senate should use its own judgment—and ideology.

In Warnke's case, Tower thought the nominee was too liberal. He accused Warnke of "grievous errors in judgment" on U.S. weapons sytems, and he said he feared Warnke would be even more mistaken in his judgments about Soviet weapon systems as a negotiator.

His opposition to Nitze in November 1963 was for similar reasons. Nitze was nominated by President John F. Kennedy and immediately ran into opposition on the Senate Armed Services Committee for views expressed in a 1960 California speech and the product of a 1958 conference in Cleveland. The battle is described by author Strobe Talbott in his book on Nitze, "The Master of the Game."

In the California speech, Nitze had suggested that the Strategic Air Command be put under the control of NATO and that the United Nations be given control over the use of nuclear weapons. Nitze attempted to explain his views to the committee, but was clearly on the defensive.

After Kennedy's assassination, President Lyndon B. Johnson pressed committee Chairman Richard Russell (D-Ga.) to bring the nomination to a vote. Tower was one of a handful of senators (including Republican Sen. Milward Simpson of Wyoming, the father of Senate Republican Whip Alan Simpson of Wyoming) who opposed Nitze.

Invoking his own service in the Navy, Tower said he opposed Nitze "because of his views on disarmament, his views on our military posture and his views on the disposition of the military forces."

Tower and Nitze eventually ended up on the same team; as part of President Ronald Reagan's arms control negotiation team in 1985-86.

Tower's longtime fight with organized labor led him to oppose Marshall in 1977 and Usery the year before. In Marshall's case, he spoke at length on the Senate floor about labor's influence in public policy and his fear that Marshall would simply be a rubber-stamp for its views.

"I hope to have a labor secretary who can view those issues more objectively and not from the official union point of view: who could advise the president in a more objective way," he said.

For a man now accused by some of his critics of being too close to the defense industry, that opposition to Marshall has a ring of irony.

Staff researchers Michelle Hall and Colette T. Rhoney contributed to this report.

PLACING A "CHECK" ON THE PRESIDENT: FRAMERS BELIEVED THE SENATE SHOULD SHARE APPOINTMENTS

(By Al Kamen)

It probably would not happen very often, Alexander Hamilton wrote 200 years ago, but it would happen every now and again that the Senate would reject a presidential nominee. That was not a bad thing, Hamilton said.

In fact, "It would be an excellent check upon a spirit of favoritism in the president," Hamilton wrote in Federalist 76, "and would tend greatly to preventing the appointment of unfit characters. . . ."

Hamilton was not referring to the president's Cabinet because no idea of a Cabinet is in the Constitution. He was explaining the provision that gives the president the power to nominate officers of the government with the "advice and consent" of the Senate.

That provision in Article II of the Constitution, a compromise brokered 202 years ago, is at the heart of the controversy over former Senator John G. Tower's embattled nomination to be secretary of defense.

Some of Tower's supporters have argued that the Senate has some sort of constitutional obligation to approve presidential nominees. But that view is based on tradition, rather than the Constitution or the debates involved in its ratification, according to experts.

Delegates to the Constitutional Convention in Philadelphia believed strongly that certain powers should be shared by the Senate and the president, especially the appointment power. Throughout most of the convention, delegates held that the authority to appoint many high officials, including Supreme Court justices and ambassadors, should be retained exclusively by the Senate.

Late in the debates, those powers and the power to name "officers" was given to the president, but with the condition that they be subject to the advice and consent of the Senate. The delegates made no exception for Cabinet officers; neither did they establish any criteria or offer any guidance for when a nominee should be rejected. Nothing in the original language would prevent the Senate from rejecting a nominee for any reason or no reason.

The notion of the Senate having appointment power may seem strange now, but many of the states apportioned authority away at the time—the Virginia legislature still appoints judges—and the drafters drew on their experiences back home.

That "advice and consent" provision was not found in every draft of the Constitution and was not included in an earlier subcommittee report.

But after the language was later added, James Wilson, a delegate from Pennsylvania, tried on Sept. 7, 1787, to have the advice-and-consent clause removed, giving the president sole appointing authority across the board. Wilson said that the presidential responsibility for appointments would be "destroyed" by letting the Senate have a role.

But he was voted down. "As the president was to nominate, there would be responsibility," said Gouverneur Morris, "and as the Senate is to concur, there would be security." Morris, also from Pennsylvania, meant that the Senate would act as a check to ensure nominees were qualified.

The contours of the Tower battle are determined by politics, not by the Constitution, experts on both sides agree.

"Whenever I see a member of the Senate solemnly intone that there is a serious constitutional question involved here I have to laugh," said Duke Law School Prof. Walter Dellinger, a former adviser to Democrats on the Senate Judiciary Committee. "There is not a serious constitutional question that they may reject the president's choice. This is a question of prudence and policy."

Dellinger said that, as a policy matter, the Senate may consider both political philosophy and fitness when it reviews judicial nominees, but that, "as a practical matter, the president should have the final choice as to the political philosophy of his [Cabinet] appointees."

Gary McDowell, vice president of the conservative National Legal Center for the Public Interest, agreed that "a senator has a right to consider anything he wants" in assessing a nominee. "It is not inappropriate for the Senate to consider personal traits," he said.

Still, Hamilton was right in his prediction that it was "not very probable that [a president's] nomination would often be overruled"; the Senate has rejected only eight Cabinet nominees and only about a dozen Supreme Court nominees.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, more than 12 years ago during debate over a new President, Jimmy Carter's nomination of Griffin Bell to be Attorney General, a Senator rose to the floor to make remarks, which I believe to be very wise and profound. This Senator told his colleagues that:

> Much has been said, and more has been thought, about the deference that may be due the wishes of the new administration. But what we owe the President is not our loyalty—but our judgment seasoned, critical, concerned above all with the well-being of the Nation. In the long run, I am convinced that we will do the President the greatest service when we give him the benefit of our most critical judgment, not when we go along to serve our convenience or his. Our duty in a case such as this is to search out facts, possibly unknown to the President when he made his initial decision, and cast our votes as those facts require. We have an obligation to the President and to the American people to maintain the vigor and independence of the Congress so that the natural competition and disagreements between ourselves and the executive branch will increase ingenuity and thoroughness of all concerned.

Mr. President, in the past week I have not heard a better argument on this floor for the Senate exercising its constitutional duty of advice and consent on the nomination of John Tower as Secretary of Defense. I wish I had conceived and written those words, but I did not. In fact, that speech was made by the current Republican leader, the Senator from Kansas, when he opposed at that time the newly elected President's nomination of Griffin Bell to be Attorney General.

Later that year, when the Senate was considering the President's nomination of Paul Warnke as head of the Arms Control and Disarmament Agency, the same Senator's voice was heard in opposition to his confirmation. In that speech on March 9, the Senator from Kansas said:

> At this time, the Senate confronts its responsibility either to confirm or deny the nominations based on our judgment of Mr. Warnke's personal qualifications to fill these positions. It is neither a simple or insignificant responsibility.

Mr. President, I could not agree more with those remarks. I wish I had said that. But I did not. The Republican leader, made those remarks.

Furthermore, Mr. President, during that same debate, over Mr. Warnke's nomination, another Senator delivered a speech in opposition to the new President's nominee, which I believe rivals that of the Senator from Kansas for its intelligence and its persuasiveness. In that speech, that Senator said:

> The suggestion has been made that the people should trust the President to make the right appointment. I think that ordinarily we do around here. But after all, the Constitution has vested in us the responsibility for advice and consent and it is one that we should exercise.

I wish I had uttered those words, but I did not. In fact, it surprised me to learn that they were spoken by the man whose nomination we are currently considering, the former Senator from Texas, John Tower.

Mr. President, I am greatly disturbed by the statements that 9 votes against John Tower's nomination as Secretary of Defense is to embarrass the President who we all admire and respect. I want him to be successful. But when I listen to the debate and hear the arguments offered by my colleagues who are supporting this nomination, I wonder how they could have so conveniently forgotten the arguments they made in the past. They say that President Bush is a new President and he should not be crippled and disgraced during his first months in office. That, they cry, is unfair and is partisan. If my memory serves me, the nominations of Mr. Bell and Mr. Warnke were made in the early days of President Carter's Presidency. Why would their rejections have been any less an embarrassment to that President than the rejection of John Tower to this President? More importantly, why would their very compelling arguments on behalf of the Senate's right to reject a nominee be any less compelling during this debate? The truth is that if this nomination is not approved I expect the President to very promptly send us someone who I would expect us to also promptly approve. We need a conservative Secretary of Defense, one who is willing to defend the defense interests of the United States of America.

I know that there are very well-qualified individuals who would be willing to serve who meet those standards and qualifications.

For the past week, I have listened as Senator after Senator has taken the floor to argue that the President has a right to his nominee, that the President should not be denied the man he wants in that position. If that is the case, then why have many of those Senators been more than willing to exercise their constitutional duty of advice and consent in the past and vote against other nominees? Research reveals that since the 96th Congress, in just 8 years, Republican members of the Senate have voted against the President's nominees to various Cabinet positions 122 times. Given the record, it seems to me that to charge those who now oppose John Tower's nomination with partisanship is most unfair and is in fact partisanship in its own right.

We have now approved in this Congress by this Senate 19 of President Bush's nominees with only one dissenting vote, and that one dissenting vote was a Member of the Republican party.

Mr. President, when Senators take our oath of office we all pledge to uphold the Constitution of the United States and to fulfill each and every duty prescribed by the Constitution as U.S. Senators. Mr. President, the Constitution in atricle II, section 2, says that the President shall nominate "Officers of the United States" with the "advice and consent" of the Senate.

When our Founding Fathers met to write the Constitution, they determined that, contrary to what we have been hearing the President should not have the right to form his government unilaterally. They were firm in their belief that the President and the Senate should share the power to appoint the heads of the executive branch departments. If they had believed, that the President had the right to appoint his cabinet without the consent of the Senate, they would not have written the Constitution as they did. As Alexander Hamilton wrote in Federalist 76, the Senate's rejection of a nominee "would be an excellent check upon a spirit of favoritism in the President and would tend greatly to preventing the appointment of unfit characters."

Mr. President, after much thoughtful consideration, after reading the report of the Armed Services Committee and the FBI report, after listening to hours to Senate debate and after talking with the President on two different occasions, I have determined that I will vote against confirmation of this nominee. Given the body of evidence amassed by the FBI and the committee, which led one investigating official to comment that Tower would not be qualified to serve as an FBI agent, I cannot support his confirmation.

There is one major factor which has led me to this conclusion. Senator Tower has admitted that he had a drinking problem in the 1970's and the committee found evidence that indicated that this problem continued into the 1980's. He has never sought professional help for his condition and has changed his story about the extent of his drinking problem all during the confirmation process. This is simply too important a position in our nuclear age to trust to one who may have a problem with alcohol. The future of our Nation and the world may rest in the hands of the man who occupies the office of Secretary of Defense. This moninee represents a risk I cannot in good conscience take.

It has been said on the Senate floor that no one has seen him drunk and we have served with him.

Mr. President, one of the classic examples of a person who has an alcohol problem is that we do not see them drinking in public. We do not see them drunk at work. We do not see them abusing alcohol where other witnesses are available.

Mr. President, I have had personal experiences with people who have had serious drinking problems; who, in fact, have been alcoholic; who have since taken the responsibility of seeking professional help and care and, in fact, treatment.

I have known this person for many years. I have never seen him drunk. He drank quietly; he drank by himself, he drank late at night; he drank under cover, and no one knew he had the serious drinking problem that he, in fact, had.

So to say none of us who have served in the Senate have seen him drunk is not evidence of him not having a drinking problem. He has admitted that himself. That is one of the classic examples of a person who, in fact, has a very serious problem.

Mr. President, I have heard he pledged not to drink, and I congratulate him for taking that pledge. That is exactly what someone who has a drinking problem should, in fact, do. I think Americans think this is a step in the right direction, and I applaud him for taking it.

I would like to conclude my remarks again quoting the Senator from Kansas whose remarks on this matter 2 years ago are very astute. In that speech, September 25, 1987, the Senator said:

> Drugs and alcohol also exact costs which have little to do with money. The U.S. Armed Forces have a mission to perform, and it is simply incompatible with drug and alcohol abuse. Individual mistakes and poor performance decreases the effectiveness and the readiness of our forces. Drugs and alcohol cause their abusers to let down every member of their unit.

I cannot agree more, Mr. President. The fact that John Tower's excessive drinking would disqualify him from being assigned to many sensitive positions at the Department of Defense leads me to my decision that he should not head the Department of Defense. Should not these same strict standards of sobriety be applied to the highest, most sensitive post in that Department to a person who is, indeed, on call 24 hours a day, as are applied to the enlisted men and women in the field? I believe that they should. Should not the person in charge of the Pentagon be a person who has the same high standards as the men and women who, in fact, he is in charge of? I believe that he should.

Mr. President, John Tower does not meet these fundamental and basic standards that we normally apply to the enlisted man in sensitive positions. It pains me to vote against a nomination sent by a President whom I greatly admire and personally respect as much as George Bush, and a person who I want to succeed, not because he is a member of the opposite party or despite the fact he is a member of the opposite party, but because it is in the interest of all of us as Americans. However, my esteem for the President will never overshadow my commitment honoring the oath of office as U.S. Senator. That commitment leads me no choice but to vote before this nomination that is before us at this time. It is now time, Mr. President, to move on to other pending business.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

Mr. WARNER. Mr. President, we would normally follow the protocol of alternating, but at this time, I see two colleagues on the floor. First, the Senator from Idaho seeks 10 minutes from the control of the time of the Senator from Virginia to be followed by the Senator from Pennsylvania who desires up to 20 minutes, but not to exceed 20 minutes. I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, if this nomination is not confirmed, it will indeed be a very sad day for the U.S. Senate and the United States of America. There is no question that this nomination has been costly, Mr. President. Its effects, as our colleague from Minnesota correctly stated, are going to be felt in this Chamber for quite some time.

Moreover, the conflict has doubtlessly hurt Senator Tower personally and professionally. And, it hurts the very man an overwhelming majority of Americans voted to be President of the United States, George Bush. You simply cannot have the President nominate a man with this high degree of qualifications and have him turned

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down. It grieves me to hear the remarks that were given by my dear friend from Louisiana, whom I have been in the Congress with for 16 years now, in the House of Representatives and here. We have come to different conclusions on this nomination.

The message this sends to the world, is not just the vote against the nomination of John Tower. What it tells the world is that George Bush, who was elected President of the United States, really still has to kowtow to a Congress made up of a much philosophically different point of view.

President Bush was elected on one of the most conservative platforms that anyone has run for President on in my lifetime, and elected by a strong majority of the American people. Yet, the President is not going to be able to effectively carry out his own defense strategy and policy without knuckling under to Congress.

There are divergent signals here. The signals it sends are not helpful. It does not help the country. To have some opposition would be one thing, but to vote the nomination down, as I fear may happen, is another thing.

The Senate, in my opinion, has never once touched upon the real issues, the constitutional prerogatives of advise and consent. I have yet to hear one relevant question asked of Senator Tower regarding his opinions on defense and national security needs.

Senator WALLOP put it best in his separate views, and I invite my colleagues to review:

> The American people elect and pay their Senators to make choices about the substance of policy and to take responsibility. Instead, the Armed Services Committee and the full Senate has hidden its struggles over military policy behind a pseudo debate on morality.

Mr. President, I think that is a very strong indictment of this process of the Senate. It is not a good day, in my opinion, for the U.S. Senate.

The confirmation process has become a trial. The Senate's role of providing advice and consent has turned into the Senate being the judge, the jury, and the executioner of Senator Tower. We have yet to debate the qualifications of Senator Tower to be Secretary of Defense. We have only spoken of allegations, innuendoes, or "factoids" as Senator WALLOP has called them.

If Senator Tower is not confirmed, Mr. President, where do we go from here? In what manner and what method are we going to approach the needs of this Nation and the security of the world?

As we look at $308 billion defense budget, it will be necessary for the Secretary to ensure that it is not all spent on providing the same amount of defense. Are the Ready Reserves as much a part of the defense as the Fleet Marine Force or light infantry divisions in the Army? Where are we going to spend out dollars? Will we actually get to the strategy?

It seems to me that John Tower is the man who is eminently qualified to fulfill these needs. He is capable and qualified to give us sound advice and good guidance on where we should be allocating the taxpayers' dollars that provides for the preservation of peace and freedom in this world.

I have a great deal of confidence in Senator John Tower and I believe he would make a great Secretary of Defense.

I am still hopeful that some of my colleagues on the other side of the aisle will see the tragedy of what is happening here, not only to Senator John Tower the person, but what is happening to the perception the United States will have throughout the world. What will our adversaries think of us, and how are they going to perceive the ability and strength of President Bush.

We have heard all kinds of talk in this Chamber, Mr. President, about the perception of whether someone drank too much whiskey or whether they did this or did that. However, we have not talked very much about what is the perception of the United States of America.

Are we going to have a strong, free will, to preserve peace and freedom? Are we going to continue to try to have a strong economy and a strong military that can preserve that peace and freedom? What is the response going to be when the markets finally realize what has happened, to the absolute shock to many of us that this could have happened? If we had an unqualified person up for the Secretary of Defense, someone with no experience in defense, and the Congress turned him down, I would understand that. But we have seen the chairman of the Armed Services Committee, the ranking member of the Armed Services Committee and others heap praise upon praise upon priase on John Tower over the years.

We have watched this man go from a distinguished member of the Armed Services Committee, to a distinguished chairman of the Armed Services Committee, to chairman of the Tower commission, to chief negotiator on the START talks in Geneva for President Reagan. He obviously has been trained. If anyone was prepared for this job to step in and hit the ground running, it is John Tower.

Are we going to have a strategy where we have the ability to go into a brushfire situation and have troops that can sustain battle for 50 days or 60 days or however long the requirement might be?

If we had someone who had no experience in the military, no experience, no background and it appeared it was just a close, chummy friend of President Bush and he wanted to put him in that spot, that would be a time when I could understand my colleagues taking this position. But when you are turning down a person with the obvious capabilities of John Tower, I cannot see any other response from the rest of the world to say partisan politics has become more important in the United States of America than the United States of America standing together at the water's edge with a bipartisan foreign, military, and defense policy.

This is indeed, Mr. President, a very, very sad day. The question is going to be asked of Senators when they go out and start running, "What is in your FBI file?" We have made such a big deal of an FBI file. I think it will be interesting how long it will be before a Senator seeking reelection will have the media saying, "Senator, what is in your FBI file?" Would you like to report that to the media to see what the FBI file says about each of us? I would not be surprised but what most Senators here do not have an FBI file somewhere.

Can we really live up to the standards that have been set? I think this is indeed, Mr. President, a very, very sad day.

I want to call to the attention of my colleagues a letter that Senator STEVENS mentioned on the floor the other day, the letter from General Kelley, former Commandant of the Marine Corps, where it is signed by:

Gen. Robert H. Barrow, USMC (ret.), former Commandant of the Marine Corps;

Gen. Richard E. Cavazos, USA (ret.), former Commanding General, Forces Command;

Gen. Bennie L. Davis, USAF (ret.), former Commander-in-Chief, Strategic Air Command;

Gen. Raymond G. Davis, USMC (ret.), former Assistant Commandant of the Marine Corps and Medal of Honor recipient;

Gen. Charles A. Gabriel, USAF (ret.), former Chief of Staff of the Air Force;

Adm. Thomas B. Hayward, USN (ret.), former Chief of Naval Operations;

Lt. Gen. James F. Hollingsworth, USA (ret.), former Commanding General, I Corps, Korea;

Adm. James L. Holloway III, USN (ret.), former Chief of Naval Operations;

Gen. Samuel Jaskilka, USMC (ret.), former assistant Commandant of the Marine Corps;

Gen. Paul X. Kelley, (ret.), former Commandant of the Marine Corps;

Adm. George E.R. Kinnear II, USN (ret.), former U.S. Representative, NATO Military Committee;

Gen. William A. Knowlton, USA (ret.), former U.S. Representative, NATO Military Committee;

Adm. Wesley L. McDonald, USN (ret.), former Supreme Allied Commander Atlantic and Commander-in-Chief Atlantic;

Gen. Bryce Poe, USAF (ret.), former Commander, Air Force Logistics Command;

Gen. John Roberts, USAF (ret.), former Commander, Air Training Command;

Lt. Gen. Thomas R. Stafford, USAF (ret.), former astronaut;

Gen. William C. Westmoreland, USA (ret.), former Chief of Staff of the Army,

Gen. Louis H. Wilson, USMC (ret.), former Commandant of the Marine Corps and Medal of Honor recipient; and

Adm. Elmo Z. Zumwalt, Jr., USN (ret.), former Chief of Naval Operations.

That is just a few supporters of Senator Tower, Mr. President. Just a few. But those few represent careers with experience that I think Members of the Senate should at least pay some more respect and attention to.

What we are doing here? What is happening here? The American people are going to be asking those questions. Have we allowed partisan politics to interfere with the sound operation of the defense capability and strategy of the United States of America?

Mr. President, I ask unanimous consent to insert in the RECORD the additional views of Senator MALCOLM WALLOP that are in the committee report.

I have three or four other articles from various newspapers that I also ask unanimous consent to insert in the RECORD.

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

MARCH 6, 1989.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Last Wednesday, 19 retired Generals and Admirals from the Army, Navy, Air Force, and Marine Corps, all of whom have known the Honorable John Tower for many years, forwarded a telegram to the Commander-in-Chief of the Armed Forces, strongly supporting the nomination for Secretary of Defense of this exceptional American. I believe that this act is unprecedented in the history of our Country, and have attached a copy of the text for your examination.

I have known Senator Tower professionally, socially, and personally for over a decade, and one of my sincerest regrets is that I retired before having an opportunity to serve under him while he is our Secretary of Defense. It is my strong conviction that history will identify him as one of the greatest patriots and statesmen of our generation.

I urge you to judge Senator Tower on his unique professional qualification to lead our defense establishment. The young men and women who today are serving in the uniform of their Country deserve to have John Tower at the helm.

I am sending this same letter to all members of the United States Senate.

With warmest best wishes, I am

Most respectfully,

P.X. KELLEY,
General, U.S. Marine Corps (Ret.), 28th Commandant of the Marine Corps.

ATTACHMENT

Text of a telegram sent to the Commander-in-Chief of the Armed Forces by 19 retired senior officers on March 1, 1989, in support of the Honorable John Tower for Secretary of Defense.

"To the President:

"We have served as General and Flag Officers in the Armed Forces of the United States.

"We commanded the military forces upon whose successful performance the security of the American people depends.

"We know John Tower well, and have known him for many years.

"In our relationships with John Tower, we have found him to be superbly qualified in every respect, both professionally and personally, to serve the Nation as Secretary of Defense and in the chain-of-command. We would be honored to serve under him, and the uniformed men and women of our country would unquestionably benefit from his leadership.

"We strongly support your nomination of this exceptional American."

Signed,

General Robert H. Barrow, USMC (Ret.), former Commandant of the Marine Corps.

General Richard E. Cavazos, USA (Ret.), former Commanding General, Forces Command.

General Bennie L. Davis, USAF (Ret.), former Commander-in-Chief, Strategic Air Command.

General Raymond G. Davis, USMC (Ret.), former Assistant Commandant of the Marine Corps and Medal of Honor recipient.

General Charles A. Gabriel, USAF (Ret.), former Chief of Staff of the Air Force.

Admiral Thomas B. Hayward, USN (Ret.), former Chief of Naval Operations.

Lt. Gen. James F. Hollingsworth, USA (Ret.), former Commanding General, I Corps, Korea.

Admiral James L. Holloway, III, USN (Ret.), former Chief of Naval Operations.

General Samuel Jaskilka, USMC (Ret.), former Assistant Commandant of the Marine Corps.

General Paul X. Kelley, USMC (Ret.), former Commandant of the Marine Corps.

Admiral George E. R. Kinnear, II, USN (Ret.), former U.S. Representative, NATO Military Committee.

General William A. Knowlton, USA (Ret.), former U.S. Representative NATO Military Committee.

Admiral Wesley L. McDonald, USN (Ret.) former Supreme Allied Commander Atlantic and Commander-in-Chief Atlantic.

General Bryce Poe, USAF (Ret.), former Commander, Air Training Command.

General John Roberts, USAF (Ret.), former Commander, Air Training Command.

Lt. Gen. Thomas R. Stafford, USAF (Ret.), former Astronaut.

General William C. Westmoreland, USA (Ret.), former Chief of Staff of the Army.

General Louis H. Wilson, USMC (Ret.), former Commandant of the Marine Corps and Medal of Honor recipient.

Admiral Elmo R. Zumwalt, Jr., USN (Ret.), former Chief of Naval Operations.

ADDITIONAL VIEWS OF SENATOR MALCOLM WALLOP

This is not the Senate's finest hour. The Armed Services Committee should be ashamed for indulging prurient interests while neglecting our country's many, serious military problems. The American people elect and pay their Senators to make choices about the substance of policy, and to take responsibility. Instead the Armed Services Committee has hidden its struggles over military policy behind a pseudo-debate on morality.

If this country did not have serious military problems perhaps this behavior would be less reprehensible than it is. But we do have such problems. A decade ago the Soviet Union put into the field enough counterforce missiles to threaten a substantially disarming strike against our armed forces. So long have we been dithering over what to do about this fixed threat that now we see the Soviets deploying mobile missiles for their reserve forces. I wish the partisan leadership of the Armed Services Committee would tell us why they chose to focus on John Tower while continuing to dither on this. Perhaps the leadership is satisfied with the plans we have for using the roughly 2500 warheads that would be left to us after a Soviet disarming strike. If so I wish they would tell me, because I don't know of any such plan that would do the American people any good.

Perhaps the partisan leadership of the Armed Services Committee is so satisfied with the safety of our troops in Europe that they feel justified in taking two months to dangle John Tower in the wind. But how can they be satisfied when estimates of how long it would take for Soviet troops to reach the English Channel range from one to three weeks? And what would we do then? The leadership of the Armed Services Committee must have good answers since they have chosen to spend their time this way. But I wish they would tell us their plan for saving American troops in Europe.

They are also obviously satisfied with the way the Pentagon does business. Never mind that twenty five years ago it used to take from 28 months to four years to take big missiles from ideas to operational status, and now it takes fifteen years. Never mind that the Soviets do it in five years, and they can react faster than we. Never mind that thanks to the procedures worked out over the years in cooperation with the Armed Services Committee the Pentagon research, development, and acquisition process is so inefficient that it is disarming America. But evidently the leadership is satisfied with the half-billion-dollar-per-copy bomber that their process has produced. Never mind that while Soviet factories turn out antimissile equipment there are no plans at all for protecting the American people in case of war. The leadership of the Armed Services Committee wants to talk about sex, booze and money.

Far be it from me to say that personal behavior counts for nothing in public office. In fact, it counts for nearly everything. But anyone who knows the Senate even a little bit knows how much misbehavior Senators tolerate when they want to. And such sit in judgment on John Tower.

Where is the Senate's moral compass? Why has it been turned on John Tower? Suppose for a moment that John Tower were every bit as bad as the innuendo sug-

gests. Note well that a large majority of the Armed Services Committee served with John Tower. The *Congressional Record* is full of their praises for him. Indeed upon his retirement Senator Sam Nunn praised him in terms that no one who is sincere about moral matters would use about someone he thought was morally suspect. Either Senator Nunn was not serious then, or he is not serious now. I believe he is serious but not about personal uprightness. If he were really worried about drinking on the job, why does he not simply accept John Tower's promise that he will not. Not to accept that at face value is to deny that he can credibly promise to "defend the Constitution of the United States." But there is zero basis for that doubt. So there must be something else. It is strictly business: who gets over national defense. This is not a morality play. It is play clothed in see-through veils.

Far be it from me to suggest that it is illegitimate for politicians to struggle for power. Quite the contrary is true. But, in a democracy, politicians are supposed to struggle for power by convincing the voters at election time—not by putting innuendo over substance during the process of Senate confirmation. In a democracy, politicians are supposed to struggle for power by describing as accurately as possible what they propose to do, so that the sovereign people can choose between substantive alternatives. But the struggle for power over defense is taking place very differently from the model.

We just had an election, in which the American people chose the Commander-in-Chief of the Armed Forces, the President. The Constitution does not name the Secretary of Defense or any other military official. They are all mere extensions of the President. The Supreme Court has held that the President may dismiss any or all of them at any time for any reason or for none at all. The reason for that is simple: the President alone is accountable to the sovereign voters.

Now, recall what happened—and what didn't happen—during the recent national election. The polls showed—as they have for some years—that the American people believe that the Republican party is the best qualified to take care of this country's military defenses. Of course there is not unanimity among Republicans on military matters. But by and large Republicans want more defense, and they want it more energetically than do Democrats. Indeed during the 1988 campaign Republican candidates in general and President Bush in particular were eager to talk about defense. But the Democrats in general and candidate Michael Dukakis in particular avoided talking about defense. This is not to say that all Democrats are anti-defense. But those Democrats who have proposals to make about defense are acutely conscious of two things: First, most of today's Democratic party neither likes nor understands military defense. That is why no one who is perceived as pro-defense stands much of a chance to get through Democratic primaries or Democratic conventions. In the House, the Democratic caucus has even trampled the seniority system to make sure that the Chairman of the Armed Services Committee not favor the MX missile, aid to the Contras, anti-missile defense, and a host of other military measures. Second, Democrats are acutely conscious that their Party's inclinations on military matters are unpalatable to the American people. So officials elected with the Democratic party label realize that talking substantively about defense will get them in trouble either with the majority in their party or with the electorate. Not surprisingly, those Democrats who choose to act with regard to military matters have been very circumspect. This has worked against Democratic presidential candidates. The voters know that national defense is the irreducible responsibility of the President. Thus the voters judge that any presidential candidate who is not forthright about military matters is not trustworthy.

Candidates for the House and Senate have had it easier. They can always say that the President bears ultimate responsibility, but that they are partners in the process. A candidate for the Senate or House can look good on military matters talking about the process. Of course Congressmen and Senators learn quickly that mastery of the process gives us formidable power over substance. By not acting, by finding pretexts, by raising questions, even just by frowning, those of us who must approve budgets and nominees send powerful signals to the executive branch. And the colonels, and Assistant Secretaries, the Undersecretaries, the Secretaries, and the Presidents know that the price to be paid for getting along with Congress is negotiation—sharing the power to decide about substance.

Now let us be clear. It is perfectly proper for a member of Congress to challenge the President—to withhold his cooperation, or to defeat a Presidential proposal or a nominee—if he tells the voters that the President's policy is wrong, and if he proposes an alternative policy for the voters to consider. If the alternative policies prove popular, the President will heed public opinion. If he does not, the Senator can feel confident in running for President.

But it is quite something else for a member of Congress to demand the privilege of back-seat driving, of second-guessing presidential policies or nominees without ever laying out for the public what he proposes. Such a member of Congress does not enrich public opinion with alternatives. He uses public opinion to destroy the President's capacity to govern. He gains power for purposes he has not told the public about, and which he may not have fully articulated in his own mind. And since he exercises that power through others, he avoids responsibility for the events he brings about. In this case we see a Democratic party that has been kicked out of power through the front door of substantive policy, trying to grab power through the back door of the process. This is an end-run on the American people. This is evidently a corruption of the role of Congress.

This corruption can exist only so long as Presidents allow it. The President can make specific proposals on military policy and demand that Senators vote them up or down. Then he can hold them responsible. The President can send up each of his nominees together with a set of policy proposals. Then, when the voters come, it will be clear which Senator has voted for and against what. And then the voters can decide whether the Senator or the President deserves re-election. Failing any of these means to bring responsibility to the Democratic Party's exercise of the power of the process, the President could appoint Senator Nunn as Secretary of Defense. Then, at least, *he* would be overtly responsible. We would be entitled to demand that *he* tell the country what *he* and the Democratic party propose to do about this country's military problem.

I hereby promise that if Senator Nunn were nominated to be Secretary of Defense I would ask him no questions about his personal life. Rather, I would ask him the questions he should have asked of John Tower.

But since uncontested mastery of the process has already given the Committee and its Chairman much power over the Defense Department, regardless of who is Secretary, I think the responsible thing to do is to ask those questions anyway. Perhaps during the floor debate on Senator Tower we might be so rash as to discuss the nation's defense needs. Perhaps the Chairman could bring his Committee majority to respond.

QUESTIONS THE COMMITTEE NEVER SOUGHT ANSWERS TO

I. Military budgets and the safety of the American people.

(1) The American people agree to spend a lot of money on the military because they believe that it buys forces that can deter war and that, if war comes, will protect our lives and homes. Eight years ago there was a consensus that the Soviet Union's achievement of the capacity to destroy nearly all our ICBMs, most of our bombers, and that half of our submarines that are in port at any given time had created a "window of vulnerability" that required new money and major changes in the U.S. military. The consensus went from President Carter's P.D. 59 to the Republican platform of 1980. So the money came. But not everyone shared in the consensus. *The New York Times* editorial page said that, nothing we could do would change what it claims is our perpetual vulnerability. The Pentagon bureaucracy, for its part, took the money. But its cumbersome process spent it on more of the same.

Do *you* think that the American people are getting what they expect from all the money they spend on the military?

Are you going to formulate and impose on the Pentagon's bureaucracy a military program as a result of which American taxpayers' lives will be protected to the utmost of our technical capacity? Will you submit such a program to the Congress and force us to take publicly responsible votes on it? Or will you follow your predecessors' leads in this matter?

(2) Public opinion polls have shown consistently that a large majority of the American people believe that a substantial part of our military budget already goes for protecting our lives and homes against missiles and bombers. Most would be willing to spend more. As you know, however, our military leaders are comfortable with the fact that we have almost no anti-aircraft units for homeland defense and no anti-missile units at all.

As Secretary of Defense, will you follow the budgetary priorities of the Joint Chiefs of Staff or those of the American people?

II. Competitiveness in Technical Systems:

(1) I know you are painfully aware that the time and money required to translate technology into systems have grown dramatically in the U.S. Whereas thirty years ago it took twenty-eight months to develop and deploy the Thor IRBM, the MX has taken over fifteen years. The Soviet Union's development times have remained nearly constant over the past thirty years. This means that much American military technology lies around unused. You are aware I assume, that, sometimes the Soviets steal it and use it before we do.

When will you give this committee your plan for making the Pentagon's R&D and

procurement process as efficient as that of the Soviet Union? I'm not asking you to get us back to the best U.S. standards—just to Soviet ones. When can we do that?

(2) Bureaucracy, Reform, and Leadership.

Several books have appeared in recent years that I think explain why the Pentagon has become so bureaucratized that major reforms are needed. I am referring to Mancur Olson's *The Rise and Decline of Nations* (Yale University Press), to Edward Luttwak's *The Pentagon and the Art of War* and to Walter MacDougall's *The Heavens and the Earth* (Pulitzer Prize). These explanations fit the experiences I had with the U.S. intelligence community. Do you agree with them? If not, how do you explain the phenomenon?

The last major reform of the Pentagon took place a generation ago while Robert MacNamara was Secretary of Defense. No one has undone what he did. Every Secretary of Defense since then has built on what he did. Do you plan to do the same, or are you dissatisfied enough with the Pentagon to build somethng else? If so, when will we see your plans?

III. What the Soviets Can Do to Us and What We Can Do For Ourselves:

(1) I wonder if you would tell us what meaning Soviet military power has for us, if any. As you know many people now believe that military force—especially strategic forces—are no longer useful—passe.

Specifically, if you were in charge of the Soviet military machine and your political masters were to order you to destroy the American and allied armed forces, while protecting the Soviet homeland to the best of your ability, how would you use the assets under your command? What could you do to the West if you really tried?

(2) Having outlined what the Soviets could do to disarm us if they really tried, could you now tell us what the forces under the Secretary of Defense of the United States could do to protect themselves against the best that the Soviets could throw at them, while also protecting the American people from the collateral effects of the war? In other words, the American people pay for the armed forces both to deter war and to make sure that if it happens we will minimize damage to ourselves and ultimately win. We would like to know what you think is the best our armed forces can do in this regard.

(3) Given present Soviet and American procurement programs, how will the outcome four years from now differ from the outcome today?

(4) What do you think the outcome should be?

(5) What will you propose as Committee Chairman and Secretary of Defense to alter these unfavorable projected outcomes? If your proposals are finally implemented, what difference will they make?

IV. Soviet Anti-Missile Defenses:

(1) During the 1980s the Soviet Defense Council has elevated the P.V.O., the military service in charge of air, missile, and space defense, to the second-ranking position in the Soviet armed forces, right behind the Red Army. The P.V.O. seems to be getting the lion's share of special construction funds and is in the course of expansion. We now see six Hen House radar complexes, nine Pechora class radar complexes, production lines for all elements of dedicated ABM systems, including the very high-tech SH-11, production of the dual-use SA-10 and SA-12 systems, and construction of a great quantity of anti-missile related facilities, the precise use for which we do not understand. In sum, we know that the Soviet anti-missile effort is huge, and that it is not primarily research, but rather primarily production.

I want to ask you what you think all this effort means for the Soviet Union's military posture. What does the production of so many anti-missile weapons mean given the Soviet's already large capacity to destroy American missiles before they are ever launched?

Let me just ask you about one part of this problem. Specifically, what will the Soviet Union's deployment of 1,000 units of the mobile SA-12 defensive system do to our plans for a retaliatory strike? Suppose that the U.S. can count on having 2,500 warheads left after a Soviet first strike. How would we target them given the unpredictable presence of 1,000 SA-12 units around the country? In other words, what does the expected production of 1,000 SA-12 units do to the credibility of our threat to retaliate?

(2) Would you now discuss the military implications of the rest of the Soviet defensive expansion? What do you suppose would be the effect of the Moscow ABM system upon the U.S. weapons heading into the Moscow area in a retaliatory strike if the 100 launchers in that system were—as we believe they are—loaded for multiple, rapid firing? How does this affect the credibility of our deterrent?

(3) What do you suppose would be the effect on a U.S. retaliatory strike of 50 rapidly erected ABM sites consisting of Flat-Twin radars, SH-11 high altitude interceptors, and SH-8 low-altitude interceptors? What do you think the chances are that the Soviet Union may have already produced and stored the equipment for those sites?

(4) What do you suppose will be the effect on the credibility of the U.S. second-strike when the Soviet Union becomes the first nation in the world to test a laser weapon in space? As you know, given the asymmetry between U.S. and Soviet programs, that event is likely. If that event happens during your tenure as Secretary of Defense, how would you rate its importance?

V. The annual reports of your two predecessors have sounded an ominous tone about the evolution of the offensive and defensive strategic balance. They have noted that the Soviet Union's ability to destroy our strategic forces on the ground has continued to increase. They have noted that the Soviet Union's defensive programs are progressively reducing that country's vulnerability to American retaliation. Your immediate predecessor has said that "left unchallenged," these trends are eroding the credibility of our deterrent. The latest proposals for START make this problem worse rather than better.

Your predecessors have also indicated that there is really only one military way out of this predicament—an American anti-missile defense. But for a variety of reasons they have not proposed actually building one. So they have not challenged these serious trends in a meaningful way.

Will you recommend to the Congress that we build an American anti-missile defense?

If you do not, or you delay, will you recommend programs that would challenge these fearsome trends as decisively as an anti-missile defense would?

Can this country afford to put off these choices?

These are the areas a competent committee would have focused upon. Sex and whisky may divert the press and the public, but it will not divert the Soviet Union in its pursuit of even greater margins of superiority.

Can we hold NATO together, Mr. Chairman, or do you and the committee majority care more about defamation? This has not been a hearing about the Secretary of Defense and his President's policies. Perhaps during the year we can get to these questions and do what Americans expect of us. To date we have not.

[U.S. Senate Republican Policy Committee]

DEMOCRATS ON TOWER

Senator Glenn (D-OH); December 4, 1988; CNN's "Newsmaker Sunday"—from the transcript: "I worked very closely with John when he was in—when he was chairman of the Armed Services Committee in the Senate, and so I have no doubt he'd make a good Secretary of Defense but you know, it's not up to me. That's up to George Bush."

Senator Bentsen (D-TX); January 25, 1989; Hearing of the Senate Armed Services Committee—from the transcript: "When I first considered the matter of appearing before this committee, I thought John Tower really didn't have to be introduced, having been its distinguished chairman from 1981 to 1984. But, in checking on this committee, I find that approximately a third of the committee came to the Senate after John left the United States Senate. So, to each of you, I want to show you that I feel John Tower is strongly qualified to be Secretary of Defense."

Senator Gore (D-TN); December 11, 1988; CBS's "Face the Nation"—from the transcript: "Let me say that as our START negotiator in Geneva, he [Senator Tower] did an outstanding job. And I thought his performance was exemplary in every way."

Senator Nunn (D-GA); June 7, 1984; Congressional Record; page 15296: "I note that this is Chairman Tower's final authorization bill that he will be presenting to the Senate, at least on this side of the river. What the future may hold for him, I do not know, but I submit that he has the background and knowledge that are indispensable in the defense arena. I hope that, whatever the future holds when he retires, at the end of this session, he will continue to involve himself in the defense arena and our foreign policy arena as well as in the overall involvement of every aspect of government, because his talent, wisdom, and experience are indeed national assets."

Senator Exon (D-NE); October 10, 1984, Congressional Record; page 31136: "While there have been times when he and I disagreed on some specific issues as we worked toward our mutual goal of insuring a strong national defense, I have always found Senator Tower to be an admirable colleague. As the chairman of the Senate Armed Services Committee, he has been extremely effective in insuring a proper and comprehensive addressal of those critical issues related to our Nation's security. His knowledge of defense issues is impressive and has been instrumental to the continuing influence and effectiveness of the Armed Services Committee. Senator Tower's ability to comprehend and relate to so many complex issues is a rare and admirable skill. Displaying firm but fair leadership, he has guided the committee through many difficult times and has always striven to act in the best interest of our great Nation."

Senator Byrd (D-WV); October 12, 1984; Congressional Record; pages 32505: "It is a

privilege for me to take these moments to express my regard for John Tower. The Senate will miss his talents and tenacity in pursuing with great energy the causes close to his heart. The Senate exercises no more vital duty than the vigorous and responsible protection of our Nation's basic security—her military prowess, her alliances with friends, the deterrence of her adversaries. John Tower has, as chairman of the Armed Services Committee these last 4 years, executed that duty with great diligence.

". . . I may not have always agreed with John's particular point of view on a given subject, but I could never accuse him of failing to make it crystal clear how and why he took a particular position.

". . . The range of John Tower's knowledge of defense matters and the hard-working way he has mastered the very complicated legislation which funds our defense programs deserve our thanks. I am certain that Senator Tower will bring those same talents and energy into all of his future enterprises, and I wish him well."

Senator DeConcini (D-AZ); November 14, 1984; Congressional Record; page 32456: "Next, I would like to say a few words about the distinguished Senator from Texas, John Tower. John has given of himself for nearly 24 years in this arena. He has maintained a loyal, hard-working, responsible demeanor throughout his terms, while remaining strongly consistent in his support of our country's national defense. As chairman of the Senate Armed Services Committee, Senator Tower's knowledge and understanding of military preparedness is unsurpassed. He has been a true leader of the Senate in this area of concern. In describing John Tower, one word comes to mind which, although desired by many, is applicable to very few. John Tower is an American patriot. A patriot that shall be missed as we continually struggle to preserve a way of life so dear to us all."

Senator Kennedy (D-MA); November 14, 1984; Congressional Record; page 32477: "John Tower and I have had our differences over the years, but I have come to know him as a tireless and forceful advocate for America's national defense. His knowledge of the myriad, complex defense issues facing the country is unsurpassed.

". . . In my own service in the Senate over the past two decades, I was impressed every year by his mastery of the issues and his skill in presenting them on the Senate floor. And since I joined the Armed Services Committee 2 years ago, I have been equally impressed by his skillful leadership in handling the challenging business of our committee.

"Though we have disagreed on many things, one vital area of fundamental agreement stands out; John Tower's unyielding commitment to the security of America, to the strength of our Armed Forces; and to the well-being of the dedicated men and women who serve in those forces. They are the true backbone of our national security and for 24 productive years, they have had a magnificent champion in Senator John Tower."

Senator Johnston (D-LA); October 12, 1984; Congressional Record; page 32429: ". . . John Tower has served his State, his nation, and this body not only with distinction and dedication, but also with devotion and wisdom of the highest possible order. He is recognized as one of the leading authorities on defense matters, not only in this country but throughout the world, a reputation he richly deserves."

Senator Bentsen (D-TX); October 11, 1984; Congressional Record; page 31987: "During his tenure in the Senate, John Tower has established a solid and indisputable record as one of the cornerstones of this great institution. His work has always been noted for its thoroughness, and his recent tenure as chairman of the Armed Services Committee has only served to reinforce the esteem with which we regard him."

Senator Bingaman (D-NM); October 11, 1984; Congressional Record; page 31781: "He [Tower] is an excellent chairman to initiate a freshman. At the end of that long committee table, a new Senator gets a good sense of what it takes to hold the spot at the head of the table. He is to be commended for his leadership. John Tower has exhibited those qualities of toughness and fairness; tenacity and conciliation; determination and resolve which have made my hours at the table lessons in committee management. He is a formidable chairman whose strong voice, firm conviction, and steady counsel will be missed."

Senator Pell (D-RI); October 11, 1984; Congressional Record; page 31821: "It has been my pleasure to know John personally since he came to this body in a special election in the spring of 1961, just a few months after my first election to the Senate. I have always been profoundly impressed by his knowledge of government and the way he approaches all problems with a keen, analytical mind. In his four terms here, he has won the respect and admiration of all who served with him."

Senator Inouye (D-HI); October 5, 1984; Congressional Record; page 30554: "As chairman of the Armed Services Committee for the past two Congresses, Senator Tower has devoted substantial time and enormous energy to strengthening our Nation's military defenses. Under his leadership the role of this committee in influencing national defense policy has grown, and with it the voice of the Senate. His dedication to this task and attention to detail has been unsurpassed. None of us could ask more of a chairman."

Senator Nunn (D-GA); October 5, 1984; Congressional Record; page 30482: "To try and get a sense of what Senator Tower has accomplished in his 19 years on the Armed Services Committee, I went back and took a look at the FY 1966 Defense Authorization Bill, which was the first one passed after Senator Tower joined this committee. Comparing the FY 1966 and FY 1985 Defense Authorization Bills proved to be very revealing.

"The FY 1966 Defense Authorization Bill passed the Senate in a single day, April 2, 1965 by a unanimous vote. There were no floor amendments.

"The Conference Committee met once; the Conference Report was 8 pages long; and the actual Public Law was 2 pages long. It authorized $15 billion in defense procurement.

"The FY 1985 Defense Authorization Bill is a very different story.

"We spent 10 unforgettable days and nights on the floor, and debated 107 amendments.

"Conference began on June 22 and stretched out until September 26. We met on 10 different days, the last one a marathon session notable for the violence that the diet of M&M's and C-rations did to our digestion . . ."

[Note: As mentioned above by Senator Nunn, The FY 1985 Defense Authorization Bill, managed on the Senate floor by Senators Tower and Nunn, was considered for 10 days. The last day went past 3:30 in the morning. In total, there were approximately 88 hours of consideration with 39 roll call votes.]

[From the Boston Globe, Mar. 5, 1989]

"TO WEEP OR TO RAGE"

(By H.D.S. Greenway)

The sordid spectacle of the John Tower nomination will mercifully soon be over. But the process, or lack of it, says something disturbing about the way this country treats its public servants. It's a question of fairness.

Under our system of government, the president has the right to choose his Cabinet, and the Senate has the right to withhold confirmation. But withholding confirmation should be based on clear evidence of wrongdoing or lack of qualifications for the job. Senate confirmation proceedings should not be based upon blatant power politics dressed up in pious hypocrisies.

Honest men and women can have differing opinions, even when examining the same material. But none of the Democrats on the Armed Services Committee claimed they had found a smoking gun. They claimed, as Sen. Alan Dixon (D-Ill.) put it, only that there was a great deal of smoke. Is smoke really enough to deny the president the right to choose his team?

Has it come to pass that a repeated charge, even if it is never substantiated, can become accepted as truth if it is repeated often enough?

Since all the Democrats on the Armed Services Committee voted against Tower, and all the Republicans for him, the claim of either party that the vote was one of conscience and was nonpartisan is simply an insult to the intelligence of the American people.

There is no question that the Bush administration, either through inexperience or ineptitude, bungled Tower's nomination in a way that insulted key Democrats. But can we afford government by pique on the part of senators who have not been sufficiently kowtowed to?

The FBI investigation was one of the largest in history, and the way its agents were sent out again and again to chase down more rumors when earlier reports did not produce sufficient dirt smacks of a witch hunt.

The report has not been made public, so we have no way to judge its entirety. But we have been told there were many disputed accounts. A businessman claimed to have seen Tower drunk in Washington on three occasions, but Tower was not in the city on those occasions. A waiter at Washington's Monocle Restaurant said he saw Tower drunk, but the other waiters denied it.

"Factoids," is what Sen. Malcolm Wallop (R-Wyo.) called these allegations bearing the same relationship to facts as science fiction humanoids do to humans.

The Democratic committee members' majority report admitted that there was no evidence of illegality or wrongdoing in Tower's record as a military consultant, but it said he showed "poor judgment by placing himself in a situation in which there was such an obvious tension between" his former Senate job and his consulting work. The "revolving door" syndrome by which people go from government into the defense industry is indeed a problem, and Congress should enact stricter laws to prohibit it. But

it hasn't, and no one claims that Tower acted improperly under the present rules.

The Democrats also admitted that there was nothing to substantiate allegations that he behaved improperly with women in a manner that posed a security risk, nor was there any evidence that he "exerted sexual pressure" on employees and associates.

As for alcohol, Tower said that he had a problem with drinking in the 1970s when his marriage was on the rocks, but that he was not an alcoholic. If it would make people more comfortable, he said, he would give up drinking.

But that won't silence his critics because this is really about power, not alcohol.

Regardless of whether Tower is suitable for the job or not, a pattern of unfairness—never mind hypocrisy—has taken over these proceedings. It is not the first time. No matter what one thought of Judge Robert Bork's qualifications for the Supreme Court, the below-the-belt personal and political beating he received at the hands of the Senate last year was sickening.

When the committee voted not to recommend the nomination of Tower last week, Sen. Wallop said: "We have established a standard of trial by transom and trial by leak, and I don't know whether to weep or to rage."

Mr. SYMMS. In closing, Mr. President, I appeal to my colleagues that there are two or three or four who between now and the hour of 4 p.m. today will rethink their position and cast a vote for common sense, for peace and freedom, and for John Tower.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the question I see before the Senate at this time is where do we go from here? I would be hopeful, as Senator DOLE has said earlier and as Senator SYMMS has just said, that some Senators would reconsider and John Tower might yet be confirmed as Secretary of Defense. But that is, realistically viewed, a highly unlikely prospect. My question posed today is, with the outcome of this vote being a virtual certainty, where do we go from here?

Mr. President, I have already spoken at some length on the Senate floor about my reasons for supporting Senator Tower for Secretary of Defense. I believe he is well qualified, and I believe that there is no reason why he should not be confirmed on analysis of the committee report which takes up questions of alcoholism, relationships with women, and work as a contractor.

So for myself, I have already addressed those issues.

Where do we go from here is really a critical matter in terms of the impact of this proceeding on the institution of the Senate, the impact on the relationship between the President and the Senate on Cabinet appointments, and the impact on the use of FBI files.

Mr. President, many have spoken on this floor about the fundamental unfairness of the way Senator Tower has been treated because the judgment of the Senate has turned on the use of FBI files with raw information and without a process to have any basic guarantee of reliability.

I think, Mr. President, that there is a wide misunderstanding as to what is in an FBI file. It is frequently referred to as a report, but it is not a report as such. It does not contain any conclusion by the FBI. The FBI stays away from any conclusion or any judgment. But what is contained in an FBI file is any allegation, however unsubstantiated, however wild that anyone may wish to tell the FBI. That is what is in an FBI file.

Mr. President, when we make an effort to determine what the facts are in a court of law, which is the ultimate determination as to what facts are, there is an affidavit taken by the witness. There is an opportunity for cross-examination of the witness to see what were the opportunities for that witness to observe. Does the witness have some reason to be biased, to try to get at what the facts really are?

On this Senate floor, we have had an unprecedented exchange of emotional outbursts on differences of what the facts are in the FBI file. Studious Senators learned in the law have asserted that there is not one shred of evidence against Senator Tower. Other Senators equally learned in the law have asserted with equal vehemence that the FBI file is conclusive in establishing proof about the disqualification of Senator Tower.

Mr. President, I suggest today that we can change the procedures for confirmation, come to grips with this problem, and solve it. What we should do for the future is to see to it that the materials in the FBI file are scrutinized by the committee so that there is a record made testing the allegations in the FBI report. The procedures have long been established that when such an issue is raised the inquiry be conducted in a closed session. One witness appeared before the committee and made the initial charge of drinking, and perhaps surprised the committee. That, too, could be avoided by adherence to the rule that statements are to be submitted in advance of the hearing so that the committee knows what a witness will say. In addition, if there is to be an attack on character or an attack on personal habits that might be heard in a closed session.

Moving into the closed session, then, Mr. President, the allegations of the FBI report should be examined. This FBI report mostly contains identities of people who have had something to say about the nominee. Those individuals should be called in. They should be placed under oath. They should be questioned, and they should be cross-questioned or cross-examined.

If there are some witnesses who insist on confidentiality, then their evidence, I submit, should be very closely scrutinized. The FBI ought to go back to those witnesses who have asked for anonymity, and those witnesses ought to be asked to step forward into a closed committee room to identify themselves, take an affidavit, and subject themselves to cross-examination. If some informants to the FBI wish to retain anonymity in that context, so be it. That is a procedure that the FBI follows. In some cases, the leads which such witnesses may provide can be corroborated in other ways so they can be pursued in other lines.

But I suggest that anonymous witnesses, T-1 and T-2, ought to be entitled to very little weight, especially in the context of a Cabinet nomination where they are asked to come forward and identify themselves and testify—have whatever they have to say subjected to appropriate scrutiny.

Mr. President, had we had that kind of a process on the Tower nomination we would not have had the vitriolic outbursts which occurred on the floor of this Chamber.

There is a vast body of commentary on writing as to what is a fact and what is an opinion. One man says another is drunk. Is that a fact? Is that an opinion? It may appear so to the declarant that another party is drunk or it may be only his conclusion. We have had distinguished lawyers on the floor of the Senate have heated discussions, debates, charges and countercharges about who knows more about how to read an FBI file and interpret legal conclusions as to whether they are facts or opinions. It may be that there are more than two or three Members of this body who have some background or skill at such an evaluation.

We had a very heated exchange between two Senators on opposite sides of the aisle on the issue of an alcohol abuser. One Senator says the nominee is an alcohol abuser and asserts it is a fact. Another says that is a misstatement, vilification, and an inappropriate tact.

I say had we followed a procedure where the contents of the FBI file were examined in a closed session, and we got down into the details and the fine print, that would have provided a basis for reasonable men to see more than a blanket assertion and perhaps to come to some agreement, or provide an opportunity for Senators on this floor to deal with and perhaps in a closed session hear that more of a record to come to a basic judgment on this issue.

Mr. President, a great concern of this Senator is what will be the long-range impact of the Tower nomination on the traditional advice and consent function of the U.S. Senate. Advice

and consent is rendered in three categories: Treaties, judicial appointments, and executive subordinates. When it comes to the issue of treaties, the generally accepted principle is that the Senate has equal standing on a matter of policy to agree or disagree with the President as we did on the INF Treaty last year. When it comes to an issue of judicial appointments, especially Supreme Court appointments, there you have a lifetime process, a lifetime appointment, where the article 2 officer, the President, makes the appointment, the article 1 officer is the Senate, confirms or not, to create the article 3 officers, the judiciary.

The judges, the Supreme Court Justices, have terms for life which go beyond many Presidencies. When you come to the third category of executive subordinates, Mr. President, there has been a traditional standard that the President has broad, broad latitude.

Yesterday the majority leader took the floor and made an argument that it depends on whose ox is being gored, in effect that when it comes to the nomination of Paul Warnke by President Carter the Republicans say the Senate has standing to evaluate a Presidential appointee on broad grounds and to reject if they disagree with his ideology or his policy. However, when it comes to an appointment of John Tower, the Republicans say that the President has broad discretion, and the Senate's inquiry and scope is more limited. Then the majority leader added you can go find exactly the opposite, depending on who wants to articulate the principle.

Mr. President, I submit that the real test is not who argues what approach when they have a specific point in mind or a specific nominee who they want to see confirmed, but the real issue is what has been the judgment of the Senate. What has the institution had to say? The institution has said that the Senate has a very narrow scope of appropriate inquiry on the confirmation of a Cabinet officer because only eight times in the 200-year history of the United States, at least until 4 o'clock today and never in the circumstance at the start of a Presidential administration, has the Senate rejected a Cabinet appointee, and executive subordinate, who the President can fire at any time.

Mr. President, it is my hope that the Tower confirmation proceedings will be regarded as sui generis, a famous Latin phrase which means one of a kind. It really should not be a precedent. It should not be a precedent in the relationship between the President and the Senate because this case is so different since it turns on such a dispute on the facts.

One we adopt the procedure where we can come to an orderly, systematic way of determining the facts, and I think we can do it through the hearing process, the closed hearings with oath, cross-examination, and a careful evaluation of those who remain anonymous, I think we can jump that hurdle.

The Tower proceeding ought not be a precedent for the future which so sharply curtails the authority of a President to pick his subordinates.

The final concern, Mr. President, as to where we go from here, is the impact on the institution of the Senate. This has been a raucous debate. This has been an unusual process of charge and countercharge of which those who have been here for more than two decades say they have never seen the likes.

I believe that if we change our procedures on how we find the facts, if we have those disagreements perhaps behind closed doors, where witnesses are examined, witnesses are cross-examined, we get down to the details as to who saw what, we do not have the broad generalizations on the Senate floor, we will eliminate the kernel which has led to so much dissension in the Senate on the Tower confirmation process.

Mr. President, it is my view that the Senate will recover and will recover promptly. After the Tower nomination, I believe that Senators will return to this institution, to this Chamber, and we will be prepared to go forward with the business of the country. We have long since learned that one day, one Senator opposes another; the next day, on another issue, or later on the same day, those two Senators agree on an issue.

We have had the charge of partisanship and the question of challenging motives, which is a part of the political process. I do not think we have ever reached the level where any Senator has charged any other Senator with bad faith. Nobody has said that there is any malicious intent or bad faith on the part of anybody else in this body, although there are some deep-seated disagreements. I believe there is a distinct possibility that we will improve our procedures as a result of what has occurred today.

I should like to make a brief reference to the continuing discussion which the chairman of the Armed Services Committee, who is on the floor at the moment, and I have had as to the import of the rules of the Senate on investigations by the Permanent Subcommittee on Investigations, which Senator NUNN chairs as well as the Armed Services Committee. We have discussed this before. The issue was raised by the Republican leader, Senator DOLE, and I was asked to pursue it from the legal aspects and did; and Senator NUNN and I have had some continuing discussions.

Some say that there was a challenge as to the motivation of Senator NUNN in using the subcommittee. That really is not so. There was a question raised as to how the facts ought to be ascertained. Senator NUNN was notified Senator ROTH, the ranking member. Senator NUNN was willing to have the FBI proceed, once it was determined that the FBI would carry forward that investigation, where Senator NUNN had been told 2 days earlier that they would not.

Out of these inquiries and out of the Tower nomination process, we will go forward into what the appropriate rules of the Senate are: whether the Subcommittee on Investigations is limited by rule XXV of the standing rules, (k)(1), on the jurisdiction of the Committee on Governmental Affairs, and rule XXVI which limits each such committee to make investigations of any matter within its jurisdiction; or whether there is some broadening of that authority under Senate Resolution 66, as provided on page 20, where there is some reference to present national security—my own view is that when you have the Armed Services Committee, that is the appropriate jurisdiction; or whether you can have an investigation under the rules of the subcommittee, where the chairman makes the decision only by notifying the ranking Republican, or whether the ranking Republican has to give express approval. That turns on whether it is a primary inquiry or whether it is an investigation.

I do not go into these issues at any depth because others are waiting. I point out that from this kind of controversy, we will make a close examination of the rules of this body.

Rules are important, because they establish the principles by which we operate in a dispassionate context where there is no particular controversy at hand. Once a controversy arises, people take sides, read the rules, and, quite appropriately, seek to interpret the rules in a way which will permit them to legitimately accomplish their objectives. But the rules are made at a time when we are trying to prescribe general standards and principles as to how we operate, without respect to a particular case. If the rulemakers have a specific case in mind that they want to influence one way or another, they might make the rules differently. Those rules are important because they establish the standards of conduct.

The heat of the Tower nomination proceeding, I suggest, will provide some additional light as we review the events of this very difficult, really traumatic proceeding, to try to improve the institutions of the Senate for the future.

Mr. President, in conclusion, I regret that John Tower will not become Secretary of Defense, and I say that because I came to know him personally

and well while we served together in the Senate. I saw him under difficult circumstances. I am convinced that John Tower would be an able Secretary of Defense and that there is no reasonable likelihood that he would be impaired by drink. If I were to be wrong, if President Bush were to be wrong, and the President has submitted his nomination, and I vote for Senator Tower, if mistakes were made, they could be corrected instantly, because the Secretary of Defense would be subject to being discharged by the President any time the facts warranted.

Looking beyond, I hope that we, as an institution, learn from this process and improve our procedures for the future.

Mr. President, I have been asked, as the acting Republican manager, in the absence of anyone else, to yield time to the Senator from Florida.

I have just been called upon to do this, so I have to get the order in mind. Then, 10 minutes to the Senator from Idaho.

I thank the real leader for giving me the cue cards.

[Laughter.]

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. I thank the Senator for yielding time.

Mr. President, many questions have been posed to me over the last several weeks, and I have had the opportunity to review this issue with people from my State.

My colleagues have raised many questions, and I would classify them into three areas.

Basically, what is driving the debate? People back home do not understand. They are wondering why this has been dragging on, why it has been so intense, how much politics is being played, how partisan it is, what is driving it. The second question asks me to respond to the allegations made against Senator Tower. Third, obviously, how I am going to vote and what is my response to the question of voting for Senator Tower.

I think what we are experiencing, frankly, is a continuation of a trend that began several decades ago. That trend indicates that, primarily, the Democrats control the legislative branch, whereas the Republicans have been controlling the executive branch. So what we are seeing here, basically, is a struggle over power between the legislative branch and the executive branch. The bottom line of the struggle is really over who is going to control the agenda of Government.

So, while the Senator from Pennsylvania a few moments ago indicated that he hoped this was not going to impact the institution for years to come, I suggest that the old standard of partisan politics is no longer the same, so thats what we are beginning to recognize, unfortunately, is that this is the beginning, the indicator, of things to come—the struggle between the legislative and executive branches over the agenda of Government.

With respect to the responses to the allegations that have been raised against Senator Tower, I, unlike most of my colleagues in the Senate, cannot draw on personal experience. I do not have a reservoir of knowledge to draw on because my knowledge and personal relationship with Senator Tower is quite limited.

But I do notice, though, and have determined as I have made my way around during the last few weeks, my first weeks in the Senate, that there is a sense of dislike for the man and as the allegations, the wave of allegations began to flow in, there was a wave of momentum that was added to that personal dislike for Senator Tower that caused us all concern. And frankly, that wave of allegations was of concern to me, so I, like again many of my colleagues, went up to review the reports, to review the file. The first thing that I read was the committee majority report, and frankly I was stunned. But you know I learned a long time ago that when you read something the first time you read it you are hit by the emotion of the words, and so I have learned that it is important to go back and read for a second or a third time.

So I went back the next day and I read the reports, this time for the purpose of trying to determine what was fact and what was illusion.

And my conclusion after reading the reports and looking through the file the second time was that there really was not a situation where the evidence was clear. In my opinion the allegations have been blown totally out of control. There was not one shred of evidence that indicated that there was any time in which Senator Tower failed to carry out his obligations or his responsibilities.

Let me make one other point with respect to the allegations. While the disease of alcoholism may be complicated and difficult, the definition of alcoholism is relatively simple.

An alcoholic is an individual who has lost control of his life to alcohol, and I would make the argument that an individual in that condition would not be able to hide that fact because that individual would have lost the ability to carry out the obligations and the responsibilities and we would have known that.

So I would say again there is no evidence in that file that indicates that John Tower ever failed to carry out his obligations or his responsibilities.

So I, for one, will be voting for Senator Tower, and I will be voting for him because of his experience, knowledge, dedication, and determination, 24 years in the U.S. Senate, the years that he served as chairman of the committee, the time that he spent as one of our chief negotiators in Geneva, and also because the President of the United States, who has known Senator Tower for some 30 years, has placed his faith and his confidence based on the same information that you and I have seen. So I draw a completely different conclusion than a number of my colleagues in the Senate. I plan to vote for and support John Tower.

Thank you, Mr. President.

Mr. NUNN. Mr. President, I wanted to take a few minutes to respond to some of the points raised by Senator SPECTER earlier this week on the authority of the Permanent Subcommittee on Investigations to conduct an inquiry regarding the nomination of Senator Tower. Specifically, Senator SPECTER has questioned both the jurisdiction of the subcommittee in this matter and also the subcommittee's compliance with its own rules of procedure in beginning this inquiry. As to both those points, I believe the inquiry was clearly a proper and legitimate one, given the subcommittee's jurisdiction and rules of procedure.

As to jurisdiction, Senator SPECTER has cited rule XXV(k)(1) of the Standing Rules of the Senate as inadequate to support the subcommittee's jurisdiction in this area. That rule sets forth, in general terms, those matters which shall be referred to the subcommittee's parent committee, the Committee on Governmental Affairs. I would point out that rule XXV(k)(1) includes a general directive that the Committee on Governmental Affairs shall have the duty of "studying the efficiency, economy, and effectiveness of all agencies and departments of the Government," a directive which, in my view, is clearly broad enough to encompass the inquiry under discussion.

Moreover, the specific jurisdiction of the subcommittee is more clearly defined in Senate Resolution 66, which includes the current funding resolution for the Governmental Affairs Committee and which passed the Senate on February 28, 1989. Under that resolution, any subcommittee on the Governmental Affairs Committee is authorized to "study or investigate" a broad range of topics which, in a nutshell, encompass: Oversight of any government agency or department, including all regulatory programs, and in all areas, including fraud, waste, mismanagement, and conflicts of interest; criminal activity in the labor-management area; organized crime; any other criminal activity; and specific authority for oversight of Government operations in the national security and energy areas.

Specifically, the resolution includes the following grants of authority of particular relevance to this inquiry:

(A) the efficiency and economy of operations of all branches of Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditures of Government funds in transactions, contracts and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government, and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public; and

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

Senator SPECTER has also argued that since this was an "investigation" and not a "preliminary inquiry" we have violated subcommittee rules in going ahead without Senator ROTH's approval. I understand that Senator ROTH, as ranking minority member of the subcommittee, has told Senator SPECTER that he disagreed with him on that point.

Rule 1 of the PSI Rules of Procedure states that "investigations may be undertaken upon the approval of the chairman of the subcommittee and the ranking minority member with notice of such approval to all members." The same rule provides that "preliminary inquiries may be undertaken by the majority staff upon the approval of the chairman and notice of such approval to the ranking minority Member or the minority counsel."

In this case, I gave the required notice to Senator ROTH and the subcommittee staff director, at my direction, also fully advised the minority chief counsel of the initiation of the inquiry. Since this was only a preliminary inquiry, we fully complied with the subcommittee rule.

Senator SPECTER has argued that this was an investigation, not a preliminry inquiry. Preliminary inquiry is not defined in our rule, but we routinely do such inquiries when we begin any project to determine the scope of an issue and to see whether allegations merit a full investigation; that is, subpoenas, depositions, hearings, etcetera). This was clearly an inquiry, not an investigation: we had not yet even gotten to the point where we could have determined the merits of any allegations, no subpoenas were issues, no depositions scheduled, no hearings scheduled.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes now the Senator from Idaho.

Mr. McCLURE. Mr. President, I think under the procedure we have established on this side of the aisle, I am to be recognized for 10 minutes.

The PRESIDING OFFICER. The Senator is correct. The Chair recognizes the Senator for 10 minutes.

Mr. McCLURE. I thank the Chair.

Mr. President, I regret that after days of study and agonizing over this, that I am limited to not more than 10 minutes because it is impossible to sum up the case in 10 minutes. But then I recognize, too, the Senate is going to vote this afternoon and there is a limited amount of time available for those of us who wish to speak today.

I have not spoken before on this matter because I wanted to listen to all of the debate and I have listened to almost all of it. I missed a few this morning because I was downtown at the swearing in of the Secretary of the Department of Energy.

I commend my friend, the Senator from Florida, for the statement that he just made. I believe he summed it up well when he said that we know what the real issue is here; it is a struggle for power, a struggle between the Democratic majority versus a Republican President.

Does anyone here really doubt that if a Democratic President had sent up John Tower as a nominee, he would have been confirmed weeks ago? Does anyone really believe otherwise? Can anybody look at the way the Armed Services Committee voted, in party-line goose-step, and doubt that this is a partisan, political battle aimed at weakening the President and his Secretary of Defense? The fact that three Democratic Senators have broken from their party cannot change or disguise the basic nature of this conflict.

What is ironic is that despite all the talk about our responsibility to the men and women in the military, I suspect that if John Tower lost, the majority would be so anxious to cover its tracks, that it would confirm Jack the Ripper if that is who the President sent up next.

Mr. President, I have sat in my office and listened to these proceedings since they began. I have listened intently to the statements of my colleagues on both sides of the aisle. I have read every word of the FBI report. I am aware, I think, of all of the many allegations that have been made against our former colleague. Most importantly, I have known John Tower for some 20 years. And I can only come to one conclusion: There is nothing there. The Washington Post said it: Senators who believe John Tower is unfit for the job, the Post wrote this week, "have been unable to make that case except on the basis of untested and unpublished allegations. * * *"

The only thing, the only solid fact that has emerged from these proceedings, has been the overwhelming competence, the unchallenged depth, and breadth of knowledge on matters of national security of the former Senator from Texas. And I cannot help but note how our colleagues in the majority have backtracked on this question. When John Tower retired from the Senate, the senior Senator from Massachusetts, a member of the committee, said John Tower's "knowledge of the myriad, complex, defense issues facing the country is unsurpassed." Now the committee has brought its enthusiasm under control. Senator Tower, the committee report states with a sizable degree of understatement, "has a substantial understanding of national security policy and international security affairs."

So let us examine the charges that have been made. "Excessive use of alcohol." First, I would like to add my name to the names of the many other Senators who served with John Tower and swear they never saw him under the influence of alcohol.

Can I say he had never had a drink? No. Who in this room, perhaps with the exception of two or three, could say that?

Let us instead look at the facts.

I know—this has been pointed out by several on the majority side—that Senator Tower has acknowledged excessive drinking during some of the time he served in this body. That fact is used to question our judgment, since we say we never saw him drunk. But what that really proves is that even then John Tower never let alcohol impair his ability to carry out his official duties. And judging by the praise my colleagues on the other side of the aisle heaped on John Tower when he retired, judging by his unanimous confirmation to the sensitive post of chief START negotiator, they never saw him unable to carry out his duties either.

Where is the evidence for the charge that John Tower continues to drink excessively? The committee claims to have seen it.

But I have read the FBI report, and the evidence is simply not there. What is there? Allegations. Anonymous, unsworn testimony. This information has been leaked to the press and appeared in the major newspapers and the networks as if it were real news, real facts. For example, there have been reports in the Washington Post and the New York Times of drunken behavior on an airliner and at the Monocle Restaurant. Never mind that the source of the first allegation, who has

been promised anonymity, flunked a lie detector test. Never mind that four other people who supposedly witnessed the incident reported they saw no such thing. Never mind that a dozen other people at the Monocle deny ever seeing John Tower drunk. What about the guy who saw John Tower drunk three different times in Washington when John Tower was in Dallas, Seattle, and Pakistan? This is not evidence; these are hallucinations.

What do we know? We know that John Tower has admitted to drinking excessively in the 1970's. We also know he testified that he has never been dependent on alcohol or an alcoholic, and has presented medical evidence supporting this statement. And we know that he has pledged that if confirmed, he will not drink, not even wine with dinner. Finally we know, from the evidence of our own years in the Senate, that even in the years in which he has acknowledged excessive drinking, he never let this affect his ability to carry out his official duties, and to carry them out well.

Should there not be a presumption of innocence here, or at least a presumption of fair play? Would you not think we would want some real proof before tormenting and humiliating a former colleague? Why are my colleagues on the other side of the aisle willing to let the allegations of people who can't pass a polygraph test, who are contradicted by every other witness we can find, overcome their own judgment based on years of contact with Senator Tower?

I would also like to challenge my colleagues who have pounced on John Tower's pledge to stop drinking alcohol, if confirmed, as proof that he drinks too much now. All it proves is that John Tower is prepared to go the extra mile and then some, to allay any concerns about his fitness for the role of Secretary of Defense.

It was Gov. Jerry Brown that said, "a politician can do anything as long as he can manipulate the right symbols."

What about womanizing, or as the committee put it, "indiscreet behavior toward women." There have been reports in the press of Russian ballerinas and shenanigans in Geneva involving Senator Tower. There was the famous leak in the Washington Post about Senator Tower's alleged indiscretions at Bergstrom Air Force Base, which has since been completely discredited. But where is the evidence? I have read the FBI report, and there is not any credible evidence.

What about the more serious questions of possible liaisons with female foreign nationals—relationships which could pose a security risk? What about sexual harrassment of female employees. Nothing. No evidence, no findings, no record. The Committee majority admits as much. Has the nominee ever been involved in any illegal or improper relationship with a member of the opposite sex? The evidence just is not there.

What about conflict of interest? This is one area we can talk about a little more since most of the information is in the public domain. Here is what the Armed Services Committee majority wrote: "The rapid shift from status as a negotiator to status as a consultant * * * created the appearance of using inside information for private gain. * * * Senator Tower's decision to provide consulting services on arms control matters so soon after serving as an arms control negotiator crossed a line regarding the revolving door. * * * Senator Tower showed poor judgment * * * created the appearance of using public office for private gain * * *."

Does it strike anybody that something is missing? Where is the beef, Mr. President? Conflict of interest is a strong charge. Where is the evidence? There is none. Just perceptions and appearances. The SASC Senate Armed Services Committee Majority states that there is "no evidence" that Senator Tower gave his clients classified information. But the chairman of the Armed Services Committee says, "It looks like he might have, and what kind of example does that set?" Well this Senator says that this whole process has the appearance of a lynching, and what kind of example, what kind of precedent does that set?

John Tower has stated—and the committee majority has not challenged it—that he never told his clients "anything that wasn't already in the public domain."

Does John Tower have any current conflict of interest? What financial interests would John Tower be in a position to favor if he is confirmed as Secretary of Defense? None. The nominee has no legal or actual conflict between his personal interests and the financial interests he would represent as Secretary of Defense.

Let me repeat: John Tower has no financial interest in any business doing business with the Defense Department. There is not one thing John Tower can do in his capacity of Secretary of Defense that will make John Tower rich. He can pick the MX. Or he can pick the Midgetman. He won't make a cent either way.

Has the nominee complied with the law? Yes, and he has walked the extra mile to demonstrate his good faith. He has fully complied with the relevant law, the Ethics in Government Act of 1978, with all relevant executive branch regulations, and all previously announced standards of the Senate Armed Services Committee.

The nominee has also taken the extraordinary step of going beyond the requirements of the law and of the committee, and volunteering to recuse himself from suspension or debarment issues which may arise involving any of his previous consulting clients. He has also offered to recuse himself from any procurement decisions involving the C-FIN, the only program for which he might be considered to have acted as an advocate.

Let me make this point again: The Ethics in Government Act requires officials to recuse themselves from decisions involving companies in which they have a financial interest. The Armed Services Committee imposes a stricter requirement: It requires officials to sever any ties with defense companies in which they have a financial interest. John Tower has done that. And he has taken the additional step of recusing himself from disbarment or suspension proceedings involving companies with which he has no longer even any financial ties. So where is even the "appearance" of a conflict of interest?

There is nothing in any law to prohibit a person from working in or with the defense industry after working as an arms control negotiator. In fact, the so-called revolving door law specifically states that it is "not intended to discourage the movement of skilled professionals in Government to and from positions in industry * * *" The Armed Services Committee majority itself, in its report, says it has "long recognized the importance of a healthy interchange between the public and the private sectors. * * *"

This is not the only example of Government-industry cross-pollination in the defense field. In the Pentagon, the Defense Science Board and the various service science boards all bring in active defense industry personnel to advise the Secretary of Defense, the Joint Chiefs, and the Under Secretary for Acquisition. Current members include representatives of Northrop, TRW, Raytheon, Rockwell, Lockheed, Martin Marietta, and interestingly, Hicks & Associates, one of the firms for which John Tower did consulting work. In the field of arms control, the members of the General Advisory Commission on Arms Control, including consultants and defense industry employees, have access to all kinds of information about U.S. arms control policy.

So just what standard is John Tower being held to? The Washington Post wrote on Monday that Senator Tower's accusers reject his nomination based on "an appraisal of Mr. Tower by standards that have not been invoked before. * * * He is charged with behavior that the Congress has condoned in its own and on the part of nominees to the executive branch that it likes." Note those last words: "that it likes." Since John Tower does not pass some new "warm-and-fuzzy" test, he's unfit to be Secretary of Defense."

The Post goes on to ask: "Is there a new rule? Is it fixed?" The Armed Services Committee majority charges that John Tower "crossed the line on the revolving door." Just where is that line? What is the committee and the Senate's new standard?

Is it sufficient that a nominee be a superbly qualified public servant who has served his country for virtually his entire adult life? Not if you are John Tower.

Is it sufficient that a nominee has served 24 years in the U.S. Senate, including 4 years as chairman of the Senate Armed Services Committee? Not if you are John Tower.

Is it sufficient that a nominee has been unanimously approved by the Senate Foreign Relations Committee and by voice vote by the entire Senate for the sensitive post of chief strategic arms negotiator? Not if you are John Tower?

Has there never been a Defense Secretary who had worked previously for defense contractors? What about Robert NcNamara? What about Charles E. Wilson? Ah, but they were not John Tower.

Has there never been a Defense Secretary who had previously worked in the defense industry after working in a sensitive post in Government? The senior Senator from Nebraska has suggested that Brent Scowcroft be appointed as Secretary of Defense instead of John Tower. Is he aware that General Scowcroft has served as a consultant whose clients reportedly included the main contractors for the Midgetman missile, which General Scowcroft strongly supports. Is he aware that General Scowcroft became a consultant after serving as a senior Air Force officer and National Security Adviser? But of course, General Scowcroft is not John Tower.

What the chairman of the Armed Services Committee and his colleagues seem to be suggesting is this:

If you have served your country in peace and war.

If you have, in the words of the chairman of the Armed Services Committee, "background and knowledge that are indispensable in the defense arena."

If you have served in the Senate for 24 years, including 20 years on the Armed Services Committee and 4 years as its chairman:

Then you are welcome to be Secretary of any other department.

You are welcome to be a member of the Migratory Bird Conservation Commission, or the Joint Board for the Enrollment of Actuaries.

But you cannot be Secretary of Defense.

Mr. President, it is clear that John Tower has no conflict of interest. The Armed Services majority admits it has no evidence to the contrary. But they say the "appearance" or "perception" of conflict of interest is enough to disqualify John Tower from the job. What if we apply those same standards to those Senators themselves?

Let us be clear at the start that there is no evidence whatsoever that any member of the Armed Services Committee has any conflict of interest, or has behaved in any way improperly. Nor do I intend to imply that. But what are Americans to think when they consider that:

According to figures from the Federal Election Commission, the chairman of the Senate Armed Services Committee received $56,859 in PAC contributions from major defense contractors in the 2 years preceding his reelection. These contractors went on to receive $54.212 billion in defense contracts in fiscal year 1988 according to the Defense Department.

The second-ranking member of the Armed Services Committee received $42,972 in defense PAC money in the last cycle before his reelection. Companies making these contributions proceeded to garner $35.159 billion in contracts in fiscal year 1988.

Another member of the committee who has been particularly vociferous in his criticisms of Senator Tower received $79,228 in defense PAC contributions in the 2 years before his reelection. These contributors did $54.173 billion in defense contracts in fiscal year 1988.

I don't want to go through the whole list. Suffice it to say that another five members of the committee who voted against Senator Tower received an average of over $48,000 in defense PAC contributions for their most recent campaigns. The remaining members are freshmen and have never campaigned as members of the Senate Armed Services Committee.

Now I know that many of my colleagues will protest that PAC contributions are not the same as consulting fees. And they are right. But I don't think anyone would argue that campaign contributions are not important to Senators. This money does not go into our pockets, but it does help us get reelected, which is something near and dear to most of our hearts.

And some of the Senators who opposed John Tower also received honoraria from these same defense contractors. In 1985, Senator NUNN received $8,000 in honoraria from defense contractors. In 1986, he received $6,000. In 1987, Senator NUNN became chairman of the Armed Services Committee. Did anyone then say he was unfit for that post?

In fact, if you take the PAC contributions and the honoraria members of the committee who voted against Senator Tower made, they add up to a lot more than John Tower ever made from his consulting business.

And what about free travel at contractor expense? According to the Wall Street Journal, the chairman of the Armed Services Committee and his wife went to Honolulu courtesy of a company with contracts to carry U.S. military supplies to Europe. Another member of the committee who has criticized Senator Tower for creating "the appearance of impropriety," spent 3 days in Palm Beach at the expense of a major jet engine contractor. Did these men forfeit their good judgment because they accepted these trips. No. But what about the appearance of impropriety?

And what about the fact that Members of the U.S. Senate grant ourselves the right to own stock in companies which do business with the departments that we oversee? In fact, we even have the perfect right to advocate, in the Senate, programs which would benefit these same companies. That is because in the Standing Rules of the Senate, and in all the laws we make governing everybody else, we have exempted ourselves. And what kind of experience does that create?

Much has been made out of the fact that Senator Tower's clients are involved in some of our most important and most expensive defense systems: The MX, the Midgetman, SDI, the B-1B, and others.

So let's take a look at the list of contractors from whom members of the Armed Services Committee have accepted PAC money, honoraria, or trips, and see what they produce:

All of the systems that Senator Tower's clients produce, because these are the same companies who are Senator Tower's clients; the B-2 Stealth bomber; all of our frigates, destroyers, cruisers, and aircraft carriers; all of our submarines;

All of our cruise missiles; the F-18, F-15, F-16, and Stealth fighters; all of our satellites; all of our jet engines; virtually all of our air-to-air and air-to-ground missiles; virtually all of our antitank missiles; virtually all of our helicopters; and in other words, just about every major system in the U.S. inventory.

What does all this prove? Nothing. And that's the whole point. I am not suggesting, and I would challenge anyone who would suggest, that any of the Senators who accepted these contributions have acted improperly. The chairman of the committee and the other members of the committee majority are upstanding men. They are honest, solid, public servants. I do not believe that they have been in the slightest bit improperly influenced by accepting large sums of money to help them get reelected.

Is there any "quid pro quo" in the behavior of Senators who accept PAC contributions and honoraria from companies, and then go on to support programs that provide these compa-

nies with billions of dollars in contracts? Of course not.

But if you're worried about "perceptions" of conflict of interest, if you're serious in your concern for "appearances," how do you think that looks? How can you oppose John Tower based on his 2½ years as a consultant—and then turn around and say defense PAC money and honoraria do not create an equally damaging perception?

I am sure my colleagues on the committee who opposed John Tower are confident of their ability, as decent, principled, public servants, to distinguish between the national interest and the own political or personal interest. I share their confidence. So why do they not extend the same confidence to a former chairman of the committee?

Mr. President it was Field Marshal Bernard Montgomery who said, "War is a very rough game, but I think politics is worse."

There is nothing more dangerous to our system of reverence for individual rights than the tyranny of the majority—the new exercise of political power. This is injustice. Clarence Darrow once said, "true patriotism hates injustice in its own land more than anywhere else."

Mr. President, this is not the Senate's finest hour.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. WARNER. Mr. President, might I respectfully forewarn my Republican colleagues that the time remaining under the control of the Senator from Virginia is far less than what has been requested. So my first request to my colleagues is to come forward as quickly as we can and be prompt, those who have already indicated a desire to speak, and the balance I would hope that they might find it possible to make their remarks somewhat briefer than anticipated, because we are all desirous of allowing sufficient time for the distinguished Republican leader to conclude the debate on this side of the aisle.

Mr. NUNN. Will the Senator yield briefly?

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, we normally rotate back and forth. We have had several on the Republican side of the aisle, but we have not had others here, so there is no problem on that. But I would like to make some remarks after the next speaker. I know the Senator has been on the floor for awhile and I would like to make some of my own remarks after he concludes.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield up to 10 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont for up to 10 minutes.

Mr. JEFFORDS. Mr. President, not knowing Senator Tower and not serving on the Armed Services Committee, I had not intended to participate in the floor debate on this nomination. However, the course this debate has taken compels me to speak. I am concerned that we are about to establish a dangerous precedent based on ill-defined standards, precarious evidence and unfair procedures, creating a dangerous threat to the already limited private lives of public servants.

While I am new to this body, I believe that my colleagues in the other body would support my statement that I try on all occasions to make my judgements based on the merits of a situation, and not on partisan considerations. I try to use as my guide the proud tradition of independent Vermont statesmen, such as Senators Ralph Flanders, George D. Aiken, and Robert T. Stafford.

I have spent a considerable amount of time reviewing the Senate's obligations and duties under the Constitution and historical precedent in such circumstances. The Constitution provides that the President "shall nominate, by and with the advice and consent of the Senate "officers of the United States. The choice of cabinet officials clearly lies with the President. And the authority to reject a nominee is clearly given to the Senate. Both have broad latitude in their decisions.

Historically, only on rare occasions has the Senate refused to confirm a nominee, even though the Senate has frequently disagreed with the nominee or the President on certain aspects of policy or personality. Custom indicates a general feeling that the President has the right to name his own staff. Only eight nominations for Cabinet positions have been rejected by a vote of the Senate since 1789. Senate opposition also killed one nomination in committee and forced one name to be withdrawn. All but two of these instances occurred to 1870.

Upon reviewing the Senate rejections of Cabinet nominations, it is clear that the reasons for rejection have been varied. In a majority of instances, a basic disagreement with the administration over policy or prerogative was at the heart of the Senate's action, even though dislike of the nominee was often cited as a reason. Five such disagreements were over the issue of a national bank. In three other cases, objection to the nominee personally was the reason for rejection, and in one instance, the Senate rejected a nominee for Attorney General because of concern over a potential conflict of interest. Frequently, however, the Senate's stated justifications for its actions have not accurately reflected the real reasons for rejection.

The most recent Senate rejection of a Cabinet nominee is worth reviewing. Richard Allan Baker of the Senate Historical Office wrote an excellent and interesting analysis of the 1959 rejection of President Eisenhower's choice for Secretary of Commerce, Lewis B. Strauss. From my reading of the secondary sources on the Strauss affair, although the reasons given by Senators for rejecting the nominee were his policy positions and his unwillingness to cooperate with the Senate's confirmation process, it appears the answers lay elsewhere. The longstanding and bitter dispute between Admiral Strauss and Chairman Anderson was one element in Strauss' rejection. Although an FBI background check had been done, Mr. Baker makes no mention of its use by the committee. Senator Anderson made a reference to problems of character but did not follow them up. The committee also allowed Admiral Strauss to cross-examine witnesses.

In the final analysis, the primary reason for rejecting Strauss appears to have been the urge of the Democratic Senate to assert its will in a struggle of power with the President. The Democrats had gone from a 49-47 majority the previous year to a 30 seat advantage in January 1959. According to Mr. Baker, the "greatest significance of the Strauss affair lay in its reminder of * * * the Senate' capacity for obstruction and for constructive change."

Senators are expected to consider vague and even unstated criteria and digest voluminous information, both public and classified, when making their decisions. In the case of the nomination of John Tower to be Secretary of Defense, I have listened carefully to the opinions of many Vermonters, my colleagues who have served with John Tower, the administration, and to Senator Tower himself. I have waded through committee reports, FBI material, and news accounts. Yet, there is little framework or precedent around which to organize and properly use the information being relied upon here. This in part may account for the vastly differing conclusions drawn by Members analyzing the same material.

I have been frustrated by many aspects of this debate, including the frequent use of key terms that are not defined.

The media has been filled with charges that Senator Tower has had, and continues to have, a drinking problem. Yet, few people have attempted to define that term, and it appears that people have wildly different conceptions of what constitutes a drinking problem. There are few, if any, agreed upon definitions of a drinking problem. Some people say

that anyone who has a couple drinks on any given day has a drinking problem. Others would say that drinking is not a serious problem unless it develops into alcoholism.

A relevant standard for judging Senator Tower's use of alcohol would be to measure his performance against the generally accepted standard for public officials including Members of Congress. That standard, as I have observed it, is that use of alcohol must not impair a member's ability to do his or her job whenever he or she is called upon to do so. It is also assumed that consumption of alcohol is a problem if one publicly embarrasses oneself, one's constituents or one's institution. Outside of these, criteria, what one does in private is not relevant to one's fitness for office.

Because references have been made to holding the Secretary of Defense to a higher standard, it is instructive to review the Defense Department's own standards on use of alcohol. Abuse of alcohol is defined in DOD Directive 5210.42 as "any irresponsible use of an alcoholic beverage causing misconduct or unacceptable social behavior, or impairing work performance, physical or mental health, financial responsibility, or personal relationships." This is the standard applied to SAC commanders, trident submarine commanders, and other personnel who work in sensitive positions. Few people agree that a nominee who did not meet this criteria would be unfit for the job of Secretary.

As an aside, it is instructive to note that Federal law, sections 503 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), prevents discrimination against an individual who has a drinking problem, so long as it does not interfere with his or her job performance or pose a threat to the safety and health of coworkers.

John Tower has admitted that he drank excessively in the 1970's but insists that he has corrected this behavior. Fortunately, we need not rely solely upon his word that this is the case. The FBI investigation exhaustively researched this matter, following up all allegations and tips that would indicate to the contrary. Tower's Senate colleagues, both those who support him and those who oppose him, insist they have never seen him impaired by alcohol.

After a thorough reading of the FBI report, I must conclude that there is no credible evidence that Senator Tower's conduct throughout the 1980's violates either the DOD standard or the standard by which we are judged.

Charges that Senator Tower violated conflict of interest law, or the spirit of those statutes, have been raised repeatedly. The variety of the charges seems to indicate that people have greatly varying definitions of what constitutes a conflict of interest. There have been statements made that any individual who has been associated with defense contractors at any time should be ineligible for service in the Defense Department. However, I would argue that the appropriate definitions of conflict of interest for the purpose of judging Senator Tower's qualifications are the laws which apply to him—the Ethics in Government Act of 1978 and State Department guidelines for senior officials.

The FBI extensively researched all allegations surrounding Senator Tower's time as Senator, chief U.S. negotiator for the START talks in Geneva and then as a consultant to several major defense contractors. His Senate finances, official and campaign, were reviewed with a fine tooth comb, bearing out Senator Tower's claim that he used great care to prevent even an appearance of impropriety in his relations with defense manufacturers, PACs, and interest groups.

The FBI found no evidence that Senator Tower violated any statute, and the Armed Services Committee majority report supports this conclusion. The report instead expresses concern with the speed in which Senator Tower moved into his consulting role after serving in Geneva.

I understand this concern, and believe that it has some merit. I have supported legislation to tighten the restrictions on postemployment practices of Government employees and Members of Congress, and would have preferred that Senator Tower had exercised greater restraint when moving into private sector consulting. However, I consider it overreaching to reject a nominee who has carefully abided by the law just because Congress is considering enacting stricter standards.

The third category of allegations concern Senator Tower's personal conduct. A new standard of morality for public officials seems to be emerging, as evidenced by the reaction to the Gary Hart incident. Behavior that would have gone unnoticed in past years is now considered unacceptable.

In view of recent events and public reaction to them, I have attempted to distill a definition of acceptable conduct for public officials. As I see it, the private life of public and elected officials, with the possible exception of the President, should be off limits so long as it does not impair their ability to do their jobs nor embarrass their constituents or their office.

However, if one creates the impression of a morality that is different from one's actual conduct, and even challenges the media to prove it as Gary Hart did, then one's behavior is a legitimate subject for scrutiny because it reflects on the individual's integrity and veracity. In fact, the press almost has a duty to check out such a challenge to avoid becoming a coconspirator in sustaining a false image.

John Tower has been frank with the FBI, the committee, and the public about his personal life. Charges of consorting with a Russian ballerina, of womanizing and of inappropriate behavior while a U.S. Senator and the chief U.S. START negotiator have been thoroughly investigated by the FBI and the committee. Many of these claims have been refuted and the remaining accusations thrown into serious question. After reviewing all the documentation on the charges about his conduct, I concluded that there is insufficient evidence of improper conduct, under the standards set forth, or otherwise, to warrant a judgment that the Senator is unfit to be Secretary of Defense.

I think we are all in general agreement that we have a right to expect high standards from members of the cabinet. For instance, it was essential that Secretary Bennett give up smoking and overcome his addiction to nicotine before being confirmed as Drug Czar. It would have been hypocritical not to do so.

As Secretary of Defense, Senator Tower must also set an example of leadership for his department. However, I find some of the claims about the Secretary's role to be somewhat inflated. From my experience in the U.S. Navy and as a captain in the Naval Reserves, the people who set the examples in morality for the troops are the secretaries of each branch of service and the superior officers. They are the chief moral leaders for our servicemen and women. The Secretary of Defense is the work horse at the Pentagon and inside the beltway.

I feel compelled to comment on the process that has gone on here. The public has been barraged with accusations about all aspects of Senator Tower's life. The committee heard testimony from only three witnesses, none of whom were sworn, and one of whom later recanted his charges when questioned in closed session. The majority of the alleged facts on Senator Tower's conduct are contained in a classified report that few people can see and the details of which cannot be discussed publicly. The Senator has been given no opportunity to defend himself against these charges or to crossexamine his accusors, many of whom are anonymous.

While FBI background checks have been run on all cabinet and subcabinet level nominees since 1952, they are provided primarily for internal White House use. They have been made available to Members of the Senate on occasion, but rarely have all Members had access to the FBI data.

This is the first time, to my knowledge, that material in an FBI report has been a focus of Senate debate and

an alleged reason for rejection of a nominee. Senate rule 29, understandable in its conception, has caused confusion. This rule prevents the release of any privileged communication between the White House and the Senate. Leaks to the press by proponents and opponents have made a mockery of any acceptable process involving the FBI reports.

In short, all aspects of due process, or rather fairness, have been absent or destroyed. We appear to be setting a new standard for public officials regarding private conduct and establishing a process that does not contain any clear rules of evidence, defined standards or guarantees of fairness to the individual.

I understand that the Nation is morally troubled and is looking for better conduct and leadership from its public officials. But while we need temperance in personal conduct, we also need temperance in our methods. Running rough-shod over individuals rights will be more destructive than helpful. If we sanction rumors of private conduct as appropriate grounds for rejection of a nominee, does it not then become appropriate, if not the duty of the press, to report all allegations about a nominee's private conduct. Are we not then giving it license, even the obligation, to probe into the private lives of all other public officials? Could not this be construed as sanctioning the scandal sheet methodology?

Mr. President, I also am concerned that we are creating a double standard here—one set of rules and standards apply to Members of Congress, and a new, unwritten and intrusive standard is being applied to Cabinet officials.

Earlier this year, we perpetuated another double standard—levels of pay. Congress refused to raise the pay of senior executive officials, while allowing Congress to continue receiving 30 to 40 percent additional in honoraria not allowed our counterparts in the administration.

We are already asking executive branch officials for sacrifices in earning power as compared to Members of Congress and the private sector. Now we seem about to sanction the examination of all aspects of a nominee's private life.

I am concerned that we are creating a double boomerang, that these double standards will severely discourage qualified people from entering executive branch service. In addition, I think it is naive to think, that if we create this new standard making private lives subject to ill-defined and unfair examination, that the same standards and scrutiny will not be brought to bear on us.

I have just finished reading a book by David Holmes entitled "Stalking the Academic Communist." It relates the story of Dr. Alex Novikoff, a professor and biochemist at the University of Vermont who in 1953 was called to testify before the Senate internal security subcommittee about his association with Communists during his student days in the 1930's at Brooklyn College.

Dr. Novikoff realized that he would be denied his rights to due process and subject his friends to persecution, so he refused to testify and refused to give the committee people's names. The public outcry against him, based on press reports of charges against him, was overwhelming, and he was fired by the university. Thirty years later, the university atoned for its mistake by awarding Dr. Novikoff an honorary degree and the press has now apologized for its role.

We will have no such opportunity to atone if we so wrong Senator Tower. I urge my colleagues to vote to confirm John Tower.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, this is the sixth day of debate on this nomination and the full Senate has now been debating, by my count, something like 60 hours. The Armed Services Committee has been working on this nomination for a much longer time.

The process started in the executive branch in early December and, of course, the process continued after that until January 6, when the Senate was given, through its Armed Services Committee chairman and ranking member, was given the first three parts of the FBI report.

We got this nomination on January 20, and of course here we are today, hopefully concluding with it one way or the other.

It has been a difficult debate, not only because the main body of information could not be discussed in open session but also because it involved a former colleague who worked closely with many of us over a long period of years.

But the unpleasant nature of our task does not diminish our responsibilities. One of the primary duties of Senators under the U.S. Constitution is the responsibility for advice and consent on the nominations made by the President.

As the debate on this nomination comes to a close, there are several points I want to make. There have been some allegations in the last couple of days that the process we have used in the Senate to consider this nomination has not been fair.

The Senate's review of this nomination has not been perfect. I do not think you could ever have perfection in a matter this complicated and involving this many allegations.

This has been a unique case. If every nomination were like this, we would have to invent totally new procedures in handling it. But I do not believe there is a basis—and I believe my colleague from Virginia will concur in this, it is up to him—I do not believe there is a basis for saying this has not been handled fairly.

There has been a glitch or two along the way, yes. But I think we strived for fairness and I believe we achieved it in the Armed Services Committee. The Senator from Virginia has said that on several occasions. In fact, I do not have the exact quote, but the Senator from Virginia on one occasion quoted Senator Tower himself as saying something very similar to that.

As a matter of fact, the distinguished Republican leader, Senator DOLE, said on the Senate floor on February 23, and this was just a couple of hours before the committee vote on this nomination, and I am quoting from Senator DOLE's remarks: "They have had a very thorough, a very exhaustive, and a very fair hearing in the Armed Services Committee."

Again, let me read the words right in the CONGRESSIONAL RECORD of Senator DOLE. "They have had a very thorough, a very exhaustive, and a very fair hearing in the Armed Services Committee."

Apparently, the process only became unfair in the minds of some after a majority of the committee reached the conclusion, based on this—quoting from Senator DOLE, "thorough, very exhaustive, and very fair hearing," that the nominee should not be confirmed.

It seems to me what is being protested here is not the process, but rather the result. My definition of due process is procedural. Due process does not guarantee the result that one may desire. It is a procedural view of matters. Again, the minority leader said—and this is the day of the vote of the committee which was 2 weeks ago today, February 23d: "They have had a very thorough, a very exhaustive, and a very fair hearing in the Armed Services Committee."

When did all of that change, and why did it change? Why do we have one Member after another coming out and saying this procedure was unfair; we have not had due process. When did they change their mind? It seems to me they changed their mind after a majority of the committee decided to vote against Senator Tower. Up to that point in time, there had not been a single motion in committee to have a single additional witness; not one. There had not been any complaints about the FBI report and the way it was handled. There had been no motion for us to subpoena witnesses, no motion for us to take depositions. All of this concern came after a major-

ity decided to say no on this nomination.

The Senate has been criticized for not making public specific material from the FBI summary supporting the committee's conclusions on alcohol use and indiscretions.

I think the only things that will satisfy some people who have written on this subject is for me personally to come out on the floor of the Senate and open up the FBI report for everyone to look at. I will not do that. I gave my word. Senator WARNER gave his word. We have a written agreement with the White House which we both signed saying that we were going to handle this FBI report with great caution.

Again, I do not know whether people have absorbed this thought in the country, but this is a letter from the counsel to the President to me and a copy to Senator WARNER.

Quoting from that letter dated February 14—and this is the agreement we had on the way we would handle the FBI report. This is a written pledge. Boyden Gray says to us in this letter: "The documents we will provide are extremely sensitive. Their disclosure could jeopardize the privacy interests of Senator Tower and others, the confidentiality of FBI sources, the FBI's ability to conduct background investigations, and our ability to recruit qualified candidates for positions of governmental service."

That is what we are talking about here. We are not talking about one case. We are talking about the ability of the President of the United States, this President, the next one, and the next one to help his own judgment in selecting people for the highest offices in Government. That is what we are talking about.

This is the agreement that we signed. I will not read the whole agreement, but it was signed on February 14 by myself as chairman of the Armed Services Committee, Senator WARNER as ranking member and Boyden Gray, counsel to the President.

Just reading one sentence in this document which has been made public before: "Since these documents are the property of the executive branch and involve extremely sensitive information, they will be made available only through the Office of Senate Security located at room S-407, U.S. Capitol."

Mr. President, if the White House wants to release this summary—which apparently President Bush does not want to do, and I must say I understand his position on this one—then all of these allegations would be out there for the public to debate. But that judgment is not for me to make or the Senate to make. The judgment rests with the President and his advisors in this matter—the Attorney General and Director of the FBI.

Other people have criticized the committee and the Senate for allegedly relying solely on anonymous and unfounded allegations in reaching the decision to oppose this nomination. Mr. President, let me again make something very clear. Both in the FBI summaries and executive files of the committee, there are sources who agreed to give their names on the record, as well as those who requested confidentiality. I would also note that while it is true the FBI summaries often contain conflicting information, Presidents have, on many occasions, refrained from nominating someone based on the FBI report. Time after time Democratic and Republican Presidents have refrained from making nominations because of what is in the FBI report.

I pose this question to my colleagues: If it is fair for the President to use FBI information to deny people positions in the Government, is it unfair for the U.S. Senate to use FBI material in conjunction with other material and in conjunction with hearings and in conjunction with hearing from the nominee also as a basis for our consideration? If it is unfair for us to do it, why is it fair for the President to do it? If we want to get rid of FBI reports altogether, then fine. If we want the President to have sworn witnesses in his deliberations, cross-examination, subpoenas to determine who he puts in office, fine. This is not a trial. This is not an impeachment. This is advise and consent. The President does not try people. There is no constitutional right to be in the Cabinet. There is no violation of someone's due process if they are not chosen for one of the top positions in the U.S. Government.

Where is that coming from? I am hearing things out here on the floor as if we are having an impeachment trial. Somebody better read the Constitution and understand that this is advise and consent. It is a different procedure.

There are some who have argued the Senate should dispense with the traditional methods of reviewing nominations which include consideration of the FBI material used by the executive branch and go to a more formal trial-type hearing involving sworn testimony and cross-examination of witnesses.

Mr. President, since I served as vice chairman of the Permanent Subcommittee on Investigations under the late Scoop Jackson in the late 1970's—1975, 1976, 1977—I think I probably had as many investigations, chaired as many as anybody in the Congress since then, at least in the Senate. I know something about due process. I know something about fairness. I chaired hearings on organized crime, on drug running, on gun running, on guns and drugs, on all sorts of things, and I know something about what it takes to prepare for that kind of investigative-type hearing.

In our investigative subcommittee, we swear in all witnesses, all of them. Since I have been in the Armed Services Committee, we have never sworn in a single witness. We have not had investigative staff working on this matter. We made a deliberate decision we were going to use policy staff. We have not had trained investigators. That is why we relied on the FBI. We did not view this as an adversarial proceeding or a trial or investigative hearing. Perhaps we should. Some of our colleagues are saying now we should have. Where were they when the hearings were going on? Where were these people who now say we should have had a trial and should have had cross-examination? Not one of the members of the committee ever mentioned that during the hearings. There was no motion made, nobody said that. The only time we started hearing that was after the vote. Mr. President, that is not a complaint about process or procedure, that is a complaint about outcome. Outcome.

The Senate may in the future want to move in a different direction. Committees are the agents of the Senate. That is all. We are trustees for the Senate. We do not make determinations. The Constitution makes it clear only the Senate makes these determinations, not the committee. I will abide, and I know Senator WARNER will abide, by whatever the Senate tells us after this, and I am sure other committee chairmen will do the same.

I think it will be a mistake, though, to view this case as being the general rule. By any standard, this has been a unique matter. By any standard, there have been more allegations in this matter than any, I believe in my lifetime, nomination coming before the Senate. This is not a usual matter, and certainly if we were to say this is the usual rule, we may want to reexamine everything.

Let us just mention a few questions, though, that we would have to raise if we turned this into an adversarial courtroom type procedure, as some of our colleagues are asking for.

The first question: Would the Senate rely on the FBI to conduct background investigations of nominees, or would the Senate conduct independent investigations for every nomination?

The second question is: Can we realistically expect the FBI to undertake full-scale investigations, including service of subpoenas and hearing preparation, for every nomination? Is that what we want the FBI to do, or do we want our own staff to do that? At what point do we cross over from a normal procedure into a trial-like procedure? Who makes that judgment?

What are the criteria for making that judgment? If we decide to conduct independent Senate investigations, will we expand the staff of every committee of jurisdictions over nominations to include an investigative staff, or will we create an independent Senate investigative staff to investigate all nominations?

Mr. President, I know the Senator from Virginia recognizes this. We have 46 nominations to come before the Armed Services Committee on the Department of Defense civilians alone. Forty-six of them. If you want the kind of proceedings that I have heard people talk about out here where we swear witnesses, where we bring them in, where we have subpoenas and we all cross-examine every adverse witness, if you want that for the next 46, somebody better go to the Rules Committee and come up with $5 or $6 million to pay a staff. If you do not want the FBI doing this anymore, somebody better go to the Rules Committee and say we are going to have our own FBI. I do not think that is what the Senate wants, but that is what some people are saying implicitly.

Next question: What will happen when witnesses request to testify in closed session? Are we going to accept those requests, or are we going to compel their testimony in open session through subpoenas? Are we going to allow people to have privacy in what they tell us, or are we going to say, "No, we are going public, we are going to cross-examine you. If you come up here and say anything bad about this nominee, we are going to put you under cross-examination."

We are going to get all the TV cameras in there and we are going to cross-examine you. What kind of message is that in terms of possible witnesses who may have something they want to share? Are we going to accept requests for confidentiality or not? If we have our own investigations, we are going to face some of the same problems the FBI faces. Who is going to make those decisions? Are we going to end up with some committees compelling testimony in open session and some compelling closed hearings on the nomination? If so, how do we justify the difference in procedures? Can we use testimony from closed sessions in public debate on these nominations?

People are acting as if, had we done all of this in the committee, we would not have any problem with confidentiality. Not true. Not true. Under our normal rules in the committee, matters that are personal in nature are handled in executive session. Executive session testimony has the same degree of confidentiality as the FBI report. So are our colleagues who are complaining suggesting we do everything in open session, do away with executive session, they better think through that one.

The next question: How are we going to fairly limit the length of these nomination proceedings and investigations? We do not limit them. Will we not be criticized for holding up nominations, and as a result, Government operations in all of these departments? And if we do limit them, will we not be criticized for being unfair to the nominees by limiting their right to call witnesses?

The next question: If the Senate subpoenas witnesses for these hearings, will the nominee also be entitled to subpoena witnesses of his or her choice if they refuse to appear voluntarily? In a trial, both sides subpoena witnesses. Are we going to have a situation where a majority of the committee—and that is the way you have to decide things in the committee, not unanimous consent. It is the majority. The majority of the committee decides which way this is to go. Then the nominee says, "Well, I want the following witnesses." Does the majority have the right to overrule that? Are we going to say the nominee has all the witnesses he wants?

The next question: Will the nominee or his attorney be entitled to question the witnesses called by the committee? Are we going to have an attorney there? And if we do not, is it due process?

Mr. President, these are just a few of the questions. I have not visualized all of them. These are just a few. I hear a lot of people talking about things that I do not think they have thought through. I do not think they have contemplated the result of their proposals.

Mr. President, the Permanent Subcommittee on Investigations normally takes 2 to 3 months to prepare for even routine type investigative hearings. And in complicated matters, far less complicated than this one, a couple of former prosecuting attorneys and two or three full-time investigators have taken as long as 6 or 8 months to prepare for that kind of hearing. Is that what people are talking about? Is that what they want?

All of these questions deserve careful consideration before the Senate makes a decision to go down a road that had been advocated here on the floor over and over and over and over again by people of good will who are frustrated with a unique case. I am frustrated with it, too, and I am sure that Senator WARNER is frustrated. But when you start talking about where we are going in the future, there better be some careful thought given here.

People have said that Senator Tower should have had an opportunity to respond to the charges and allegations that have been made against him. Elementary. I agree with that.

Mr. President, Senator Tower has had this opportunity. Everyone who has read the FBI report summary knows very well that in the case of every serious specific allegation investigated by the FBI, the FBI followed up with an interview with Senator Tower in which he was given the opportunity to rebut the charges.

Mr. President, this is not an FBI out trying to make a case or prosecute someone. This is an FBI that has given the President one report on which he made his decision and then added reports to it. This is an FBI working under the direction of White House counsel, not working under our direction. Every single allegation they checked first had to go to the White House counsel. They have to approve it. The FBI has the White House counsel as their client. From what you would hear here on the floor you would think we had our own FBI.

It is true that the White House counsel directs the FBI. Anyone doubting that, they can call the White House and ask. The simple answer would be yes, we do direct the FBI. It is also true that the White House counsel has generally been cooperative. When the committee requested a matter be looked into after a complaint, generally speaking, with a couple of exceptions, White House counsel has been cooperative in this matter.

I also want to make clear that there are a number of allegations including concerns raised by the committee which were resolved in Senator Tower's favor in the FBI summary. If we had not used the FBI, we would have been on this nomination for 6 or 8 months.

Just a few of the allegations that were resolved in his favor: The so-called Ill-Wind procurement matter, resolved in his favor; the allegation of improper conduct with foreign nationals in Geneva by the nominee, resolved in his favor; the allegation of improper lobbying for the C-FIN Program, resolved in the nominee's favor—nothing to it, but it took some checking; questions about the manner in which Senator Tower disposed of nearly half a million dollars that he raised in his 1984 campaign before he decided not to run for reelection—a very lengthy investigation on that subject, resolved in his favor, properly so in my view; the conduct of the nomination proceedings of Melvyn Paisley, a name that is familiar and may be more familiar as the months go by, to be an Assistant Secretary of the Navy in 1981 when Senator Tower was chairman of the Armed Services Committee, resolved in his favor; whether Senator Tower was involved in a last-minute, unexplained insertion of a provision in the fiscal year 1985 authorization bill that had the effect of directing a sole-source procurement of a new 120-millimeter mortar for the

Army from a foreign contractor, resolved in his favor by the FBI report; whether Senator Tower was aware of an approach to the 1980 Reagan-Bush campaign, through his staff, by an alleged emissary from Iran who was talking at that time about making a deal with the campaign for release of the hostages after the election, a very big part of it deals with that, considerable man-hours went into that, resolved in his favor, and I believe properly so.

The committee could have called witnesses; we could have taken sworn testimony on these matters for weeks, months and months and months and months. It would have taken us, with about five investigators and two or three former trial lawyers or prosecutors, at least 6 months to investigate these allegations here that were resolved in his favor.

The FBI has unique capabilities. They were able to do it much more effectively and efficiently. The committee could have called witnesses; we could have had sworn testimony on each of these matters. We could have had cross-examination and, believe me, these matters here were as keen in terms of interest to Senators on the committee as anything we have talked about on the floor for the last 2 weeks—more so. These matters were of great concern, but they were all resolved in the nominee's favor.

Should we have had examination, cross-examination, rebuttal on all of these? We did not do that.

I think we made the right decision in not doing it. We relied instead on the FBI report and our own informal inquiries for our determination that Senator Tower was not involved in these matters or was not engaged in any improper activities regarding these matters.

Were we supposed to only accept in instances where the FBI refutes an allegation and ignore those allegations in the FBI summary that are corroborated and not refuted? Are we supposed to ignore those which require us to make a judgment based on the weight of the evidence that is conflicting? Is that what our message is here on the floor of the Senate, that we basically should pay attention to the FBI report as long as it clears up a matter but not if it leaves it where we have to make our own judgment based on the weight of the evidence? Is that what we are saying, use the FBI report when it exonerates but do not pay any attention to it any other time? That seems to me what I am hearing. That is what I am hearing by implication.

The committee also gave the nominee the opportunity to make his case in public and in private. For example, the committee offered Senator Tower the opportunity to personally rebut in public the witnesses who testified against him. The committee also gave Senator Tower the opportunity to have other witnesses testify in his favor after the outside witnesses testified against him. The nominee turned down both of these offers.

The nominee was questioned carefully by the committee in executive session on a number of issues, and the transcript of these executive sessions were available for all Senators to review in S-407. There is material in S-407 that is not FBI material. It came from our committee executive sessions and what I do not seem to able to penetrate in terms of people's minds that are concerned about this matter in many cases is that even if we did not have the FBI report, if we had handled these matters of a personal nature in our committee, unless we changed our committee's precedents and rules and procedures, it would have been done in executive session. Executive session material is also confidential. It is awkward. But I would like for someone to suggest other procedures.

I hear a lot of complaints, but I do not hear many people talking about the alternatives.

I also personally made an informed offer to White House Counsel C. Boyden Gray, and Senator WARNER was there that evening, to have a panel of medical experts selected by both the White House and the committee, or at least by the two sides of the aisle, so we could get an agreement to review Senator Tower's medical record as well as the information in the FBI summary on the whole question of alcohol abuse.

We offered this. We offered to do it in a quiet way, to get the advice of professional medical help. That offer was strongly objected to. So the matter was not pursued. The reason it was objected to, I should say, was because there was an objection to giving doctors access to the FBI material. In my view, the offer was made through a White House official in the pages of the New York Times—I never got it any other way—to have other doctors appointed to talk to Senator Tower's doctor, and then give us an evaluation based on that conversation. First of all, that did not make any sense to me at all. I do not think it made any sense to anybody on the committee, because Senator Tower's doctors had not done a review based on alcoholism or any charge of alcohol abuse. They did a casual observation based on the other medical problems.

The second thing is without a case history, without knowing more than simply a casual observation from another doctor, these doctors will not have been able to tell us anything. So the only thing that would have done any good would be for the doctors certainly to talk to Senator Tower's doctor, but also to review the examples in the FBI report as well as talk to the nominee himself. But that was turned down. So it was not pursued.

Finally, the nominee met with most, if not all, of the members of the committee individually. Senator WARNER and I also met jointly with the nominee on several occasions to go into specific allegations. The relevant details of Senator WARNER's and my lengthy meeting with the nominee were also available for Senators to read in S-407. During the entire committee review of this nomination, Senator WARNER and I and our staffs worked together as a team, a fact which Senator WARNER has himself noted on many occasions during this debate.

Whatever the acrimony, whatever the problems, that we have now, my view of it is if we had not worked together as a team and had the staff working together as a team, we could multiply this problem that we have had by about a thousand percent; about a thousand percent would have been my rough estimate.

So again I pay tribute to Senator WARNER for his honorable, for his, I think, effective leadership, and for his willingness to work together on a very difficult series of allegations.

Mr. President, I want to repeat—there were never charges of no due process prior to the committee's action on this nomination. There was not one single member who ever made a motion in committee to bring a witness up. There was not one single member that ever said, let us swear him in, cross-examine him. Where was the concern then? Where was the concern then? The FBI summary was made available to every member of the committee. I do not recall one member, not one member, who said let us not rely on this material, or let us get the witnesses up here and have a hearing. We talked a couple of times about whether to bring a witness or two in. There was discussion back and forth. But there was never a motion made, there was never a serious suggestion, and there was never a call for a vote ever to bring a witness in.

Every member of the committee knew that there were serious deeply-held concerns by committee members about the matters in the FBI summary, yet not one member moved at any time to reopen the hearings and call additional witnesses. Even the day we voted, February 23, I knew the President was out of the country. The White House also knew that we had been planning to vote for 2 weeks as soon as we got back and got the FBI report based on the financial allegation—and the White House itself asked us to hold up for about 10 days on that basis.

I had a committee meeting. We had a meeting and we discussed whether to hold up or whether to go forward. This was not a partisan question about

when we were going to vote. Not one single member said let us hold up. As I recall, the Republicans had their own caucus. We had a little caucus on our side, separate, come back in—I said, "when does the committee want to vote?" It was Thursday afternoon, February 23. The Republicans came back in and said, "We are ready to vote." We selected the time. It was 6:30 that evening.

Mr. President, I want to also point out that I privately and personally expressed my reservations after we got pretty far down into this process, about halfway; I personally and privately expressed my reservations about the nomination and the things we were running into in terms of evidence, facts, and allegations to President Bush on three separate occasions during the course of our committee's work on this matter.

Senator WARNER was there on one of those occasions, and I had two private meetings with the President. There was no secret of my concern. This was not something that slipped up on anyone at the White House. The outcome of the vote might have slipped up on them, but not the concerns.

Mr. President, I can understand the frustration and disappointment of those who have supported this nomination. But I do believe that those who now allege unfairness had some duty and obligation to make these concerns known to the chairman of the committee, and to the ranking Republican during the course of the committee's deliberations.

When it comes to fairness, I think there is an element of fairness to the chairman and to the other members of the committee in making known one's concern prior to the decisions being made. There is a fairness there too. I think almost every member of the committee will agree that as chairman I may not always agree with the members, but I have never in any way prevented a member from bringing up a matter, getting a vote, having a motion, or making a point on procedure.

I can assure everyone that had anyone made a motion that we go to an adversarial type trial procedure, it would have been given serious consideration. It was never done.

One aspect of the debate where I think all of us will agree it has been unfair has been the discussion of what I believe should have been confidential information in the news media that has taken place over not the last several weeks but the last several months. It started late November and early December, before the committee had anything to do with this nomination.

In some cases these discussions originated with witnesses who claimed to have personal knowledge of the nominee's behavior. People forget that the committee does not control the witnesses. In fact, we did not interview the witnesses, except in a few cases. The FBI did. Once those witnesses give testimony, they are not locked up and put in jail, wrapped up and muzzled. They still have the right to speak to the news media. We cannot control them anymore than the FBI can.

In some cases, these discussions were clearly leaks—unfortunate, regrettable leaks—some by the White House, some by advisers to the nominee himself, others by Members of the Senate. I regret all of them, wherever they came from. Leaks are basically unfair to the nominee and to the process. In some cases, the leaks involved allegations that had already been discredited or refuted.

I think most of the news media who have been covering this will realize that on at least three occasions, I urged great caution on the media handling of allegations concerning activities in Geneva. The reason was that we were not able to verify the accuracy of those accounts; and I felt that if they were put in the news media—and some were—it would be unfair to the nominee, and, regrettably, it was unfair. But I would say that leaks were unfair, wherever they came from, for those of us who tried to conscientiously abide by the rules of confidentiality under which we in the Senate were given access to the FBI summary.

Mr. President, it is time to bring this long debate to a close today.

Today, the Senate will decide whether John Tower will serve second only to the President in chain of command for all our nuclear and conventional military forces.

Today, the Senate will decide whether John Tower will serve in the position that sets the highest example of leadership for our men and women in uniform.

Today, the Senate will decide whether John Tower will serve as the senior official in the Department of Defense responsible for the Uniform Code of Military Justice and all the other rules and regulations governing professional behavior and standards of conduct.

Today, the Senate will decide whether John Tower is able to restore the public's confidence in the fairness, equity, efficiency, and integrity of the Pentagon's acquisition system.

I have said before in this debate that there is much in John Tower's record to commend. I believe that John Tower is a loyal, patriotic American, and I believe he has a solid record of public service. I know from personal experience that he is absolutely dedicated to this Nation's security.

My own review of the record, however, has led me to the firm conclusion that in three areas—the use of alcohol; the provision of consulting services to defense contractors on the probable outcomes of ongoing, confidential arms control negotiations shortly after serving as an arms control negotiator; as well as instances of indiscreet behavior toward women—John Tower falls short of the high standards which must be demanded of those who would bear the awesome responsibilities of Secretary of Defense.

Mr. President, this has been a highly personal, very painful judgment and conclusion for me to make. I now recognize full well that people of good will can reasonably come to a different conclusion. I hope that a majority of my colleagues will accept the recommendation of the Armed Services Committee and vote against the confirmation of this nomination.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my friend of some 20 years for his comments today. I return those sentiments. As I have stated before, we embarked together to prepare a record not only for the Senate Armed Services Committee, but also for the Senate as a whole, as best we knew how, in a manner which we believed was a nonpartisan, constructive, fair, and objective approach. On Thursday night, the 23d of February, we parted.

Subsequent to that Thursday night, when we reached that fork in the road and he had to pursue his duty, as he viewed it, and I accepted the challenge to pursue my goal, which was to bring out in this Chamber the truth, and fairness as reflected by facts we had, and to unswervingly support the nomination of John Tower. And further, to support the constitutional right of the President to select those individuals whom he believes, in his judgment, are best qualified to advise him. We then fulfilled our respective roles.

I believe only history will be able to resolve the aftermath from that Thursday night, through and including the termination of this debate at or about 4 o'clock today.

Mr. President, I had the rare privilege to step off the floor a few minutes ago to take a call from John Tower, another man I have known for 20 years. As a matter of fact, we first met at the same time I met the distinguished chairman, some 20 years ago.

I am pleased to tell my colleagues that his head is high, his voice is strong. He will make his views known following the vote.

I say to John Tower that I appreciate his expression to me personally, and he asked me to convey the same, in his language, to the "troops" that rallied to his defense, and I do so on his behalf now.

Mr. President, I will have further remarks as the day goes on, but there are other colleagues who have not had

the opportunity to speak, as I have had, over these many days.

First, I yield to the distinguished Senator from North Carolina [Mr. HELMS], and I ask if his remarks can be concluded within 5 to 7 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from Virginia.

Mr. President, I have not participated in this debate heretofore. In the 5-minute limitation, I will do the best I can.

Mr. President, in the earlier days of the Senate, it became necessary for a time to forbid Senators from bringing their walking canes onto the Senate floor. That was at a time when it was fashionable for gentlemen—and all Senators were presumed to be gentlemen—to carry canes. But a problem developed one day. The debate became so heated that one Senator cracked another Senator over the head.

That was a far departure from the civility that is supposed to prevail in this body, and which in fact does prevail most of the time. I must say, however, that there have been moments during the past couple of weeks when I found myself relieved that Senators no longer carry canes except in cases of genuine need.

As for the nomination of John Tower, it has created a division in this Senate which, in terms of volatility, I have not seen in my more than 16 years as a Senator. I do hope that there will be no lasting division, and I do not believe there will be. I hope that we can agree to disagree agreeably.

As for the John Tower nomination, I was concerned at the outset about where this would lead us. Since that time, I have been intrigued by the wide-swinging pendulum of attitudes and positions of Senators.

I remember in particular that Paul Weyrich, when he appeared before the Armed Service Committee, experienced a substantial amount of hostility, both in public and in closed session. I happen to know that Mr. Weyrich was motivated by a sense of genuine concern, agree with him or not. He had an opinion regarding the nomination that was not shared by many, if any, of the Senators on the Armed Services Committee at the time he appeared. He felt that he had a duty to express his concern, and I feel that he was, and is, owed a recognition that it required courage on his part to step forward.

Be that as it may, as the hearings progressed, and the attitude of Senators began to change, I began to ask myself a few questions. I had served in the Senate with John Tower from January 3, 1973, until he retired. Had I ever seen him drunk? No, I had not. Had I ever seen him take a drink? No, I had not. Had I ever seen, or heard of, an occasion when he was under the influence of alcohol? No, I had not.

What I had seen, throughout the time I served with him, was a thoroughly competent and dedicated Senator which is acknowledged here today by the distinguished Senator from Georgia. Perhaps John Tower is a bit abrasive on occasion, but never with me. He was a man who knows more about national defense than anybody else I have seen in this Chamber or outside of it.

Then, Mr. President, the notion began to creep into my consciousness that perhaps some of the critics of John Tower may unwittingly or intentionally be engaging in a vendetta. I read the undocumented stories day afer day in the newspapers. I saw John Tower pilloried night after night on the television news. But it was all hearsay, or it was contrived, and far too often it was absolutely false.

Then I began to hear sarcasm on this floor and charges and countercharges, and I though of the walking canes of years ago, many decades ago when that Senator from South Carolina, as I recall the story, parted the hair or maybe the wig, of someone else on the Senate floor with whom he disagreed.

I was mighty glad the other afternoon that we had no canes on the floor.

Then came the FBI files, raw files, not an FBI report—these were raw files. I spent my share of the time on the fourth floor of the Capitol going over these files, line-by-line, precept-by-precept. I found not one scintilla of evidence that would stand up in any court in the land. Charge by charge was made—and, as I read the FBI report, credible witnesses over whelmingly refuted every charge against Senator Tower. So what goes on here, Mr. President?

It was then that the question arose in my mind: What has happened to fairness. Meanwhile, the major news media were busily chasing down every Senator in sight. "How are you going to vote? How are you going to vote?"

And my response was that I was not going to participate in a head count exercise, that I wanted to be fair, first of all to the American people, but also fair to John Tower.

I have voted against some nominees during my 16 years in the Senate. But I have never voted against one without stating why, clearly and absolutely documented, and putting in the RECORD my reasons for voting as I did. More often than not, I emphasized that I hoped I would be proved wrong in my vote. I did precisely that the other day when the nomination of Dr. Sullivan came up in the Senate.

I have voted for nominees with whom I disagreed because I wanted to give them the benefit of the doubt. But I see no benefit of the doubt here being offered to John Tower.

But I hope it can be said that whatever my vote, on various nominees in the past I cast it in good faith—and that I cast in fulfillment of my duty, as I see it, under the advise and consent provision of the Constitution.

Mr. President, I suppose the rejection of the nomination of John Tower to be Secretary of Defense is what they call a "done deal" around this place. But I would hope that there may be some Senators who, while they have announced their opposition to the nomination, will nonetheless acknowledge in public what they have said in private—that John Tower has not been treated fairly by the news media, nor perhaps by others who oppose John Tower.

In cases of that sort, I will say to my Senator friends, there is a perfectly honorable, absolutely justifiable way to proceed. The vote of "present" is not a novelty in this Senate. Casting a vote of "present" could be in fact a vote for fair-play.

Whatever happens when the vote is taken, by overriding concern is that we do no harm to the meaning or, the traditions of the Senate. Warts and all, the Senate of the United States is still the greatest legislative institution in the world. Anybody who forgets that, anybody who thinks only of winning, may indeed win—but in the long run it will be an empty victory.

I shall vote to confirm John Tower, and I will do so because I am convinced that he is a highly qualified man for the job. My sentiments in that regard by the way are consistent with statements made by Senators when the conformation hearings began in the Armed Services Committee, but that was before the volatility erupted and the partisanship began to show its head.

I do not fault any Senator who disagrees with me, but I will say this:

My father was a man of limited education and great wisdom. To this day, I am guided by counsel that he gave me from the time I was a little boy growing up during the Depression in a small town in North Carolina.

On one occasion he said to me: "Son, there's no right way to do a wrong thing."

I have come to the conclusion, with no reservation whatsoever, that it is the right thing for me to vote to confirm John Tower.

And that is the way I shall vote.

I thank the Senator from Virginia.

Mr. WARNER. Mr. President, we thank the distinguished colleague from North Carolina.

Now, Mr. President, the Senator from Virginia would like to allocate to the distinguished Senator from South Carolina, the senior Republican on the Armed Services Committee, such time

as he may desire, but I would hope that there will come a point in his remarks where I could once again look at the time and then if it is agreeable I would like to have the Senator from South Dakota, Mr. PRESSLER, follow the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I want to say in the beginning, and I have great respect for the chairman of the Armed Services Committee and I have great respect for the members of the committee, in my opinion they have reached the wrong decision on a matter of great importance.

John Tower, in my opinion, has the expertise, he has had the military experience, and he has the integrity, he has the competency, to make a fine Secretary of Defense.

He is tough; yes, he is tough, and that is the kind of man we need to be Secretary of Defense. He is aggressive; yes, we need an aggressive man to be Secretary of Defense. We are living in critical times, and we ought to get the best possible man we can get for that position, and I know of no one who is better qualified than John Tower.

I want to say this: he has had dedicated public service for years and years. Why has it just come to light now he is not qualified for something? He served in the Navy in World War II. No one questioned his patriotism, questioned his service, questioned his performance. He did a magnificent job.

He served in this Senate with us for 24 years, 24 long years. Very few serve here over 6 years or 12 years. And we respected him.

He may not have been the most popular man in the Senate, because he is not a backslapper and he does not chew the fat. He is rather reserved.

But it is not popularity that counts. It should not be popularity that counts. What counts is respect. He had the respect of the Members of this body and they know it. I do not believe there is a Member here who can say that John Tower did not have their respect. And then only 4 years ago he was named as arms control negotiator in Geneva, in 1985, I believe. What happened then in the Senate? We knew him then, we know him now. What is the difference between then and what is the difference between now? We confirmed him then. Why should we not confirm him now?

Then he was asked to investigate the White House and investigate the role of the Iran-Contra affair. He brought out a report and he even criticized the President of the United States. But he had courage, he had honor, he did what he thought was right. And that is the position he has always taken as long as I have known him.

Now, there have been various allegations made, various charges made, various rumors, much gossip, much innuendo. But I want to say, of the charges that have come out in the media—and I am not at liberty to discuss those that have not come out in the media that are brought out by the FBI or the investigations—the first charge was that Tower was with a Russian ballerina in Texas, climbed on a table, and all that stuff. It turns out it is completely false. Not a word of truth in it.

Another charge was that he was with a KGB agent in Geneva. The record shows that he was never with a KGB agent in Geneva. That is false.

Another charge was that he was drunk at Bergstrom Air Force Base, that his accuser happened to be there, and he was retired from the Air Force. He was a person who was suffering psychiatric problems. The general and his wife entertained Tower there. They said his conduct was not out of order in any way.

Another was that he was drunk repeatedly in the Jefferson Hotel. The record shows he was not even in Washington at that time. On three different days, they claim he was at the Jefferson Hotel drunk. The record shows that on one day he was in Pakistan. He was not even in this country. Another day, he was in Dallas. He was not in this city. Another day, he was in Washington State. He was not even in this city. And yet, those charges were made.

When such false charges are made, we better look behind who is making those charges and why they are made. There has been an attempt here to harm this man from the beginning. Why? Because he is tough. He is a strong anti-Communist and he stands for what is best for America. He will take every step necessary to protect this country.

Yes, charge after charge. I was in South Carolina the week before last. The first thing when I woke up in the morning, I heard another charge against John Tower. During the middle of the day, another charge against John Tower. At night, on the news media, over and over and over again, another charge against John Tower. And not a single time did I hear the news media come out and say there was no merit found in that; of all these charges, no merit found in them. Why did they not bring it out?

And that deceived the people. That is why public opinion at that time turned against him. But now that the truth is coming out, public opinion is turning in his favor, thank goodness.

When there is no evidence to support those charges, it is unfair not to confirm this man who sat here for 24 years. We know him. I do not believe there is a Member in this Senate who can say he has ever seen him involved in any misbehavior here around this Senate. This is rumor and gossip and innuendo. We shoud not go on gossip and innuendo. We should go on facts. If we do not have the facts, we should not make the charge. It is not right to treat a man like that, or anyone like that.

It is perception that has turned this thing. They have gotten the perception of him as being a man who is not fit, as being a man whose behavior is not right to be Secretary of Defense. It is perception. What we ought to get is the truth, not go by perception. Only eight people, I believe, in all of history, have been turned down by the Senate when they have been nominated.

On the Armed Servi es Committee, six members on the majority side were contacted before the President nominated him. The President took a long time to nominate him because there was some talk about some charges and he took more time than usual. The President of the United States investigated the situation and found there was no merit in them. He went on and nominated him. During those allegations, six members of the Armed Services Committee on the majority side were contacted. My information is every one of them recommended him.

Now, is it fair to the President now, after he has been recommended by people on both sides, to turn around and say he is not qualified here?

They say he has a conflict of interest; he has represented some of the defense contractors. He did represent some of the defense contractors at some time. They said that he made $1 million. He had a big staff to support out of that. After all, he probably did not clear near as much money as anyone thought.

But he knows those defense contractors. There has been fraud and corruption in the Pentagon. He knows where to go after it. He knows their weaknesses and he knows what to do. And we need to clear up this fraud and corruption. We need to get to the bottom of it. Who is better qualified, who understands them better than John Tower? Who can do a good job and clean house, if necessary, in order to have clean government in this country?

That was an appearance. There is an appearance there because he once represented these defense contractors. I doubt if there is a Member of this Senate, or very few, who has not taken campaign contributions from some defense contractor over and above board. What is wrong with that? What is wrong with representing a defense contractor as a matter of a profession? Anybody can. And is he not in a better position to know what to do to clear house and clear this matter up?

From the standpoint of the President of the United States—and this is important—the Constitution gives him the prerogative to name his Cabinet. Unless there is something terribly wrong, we ought to give him that prerogative. We ought to stand by him. It has been the precedent here for 200 years that Presidents can name their Cabinet. The President is accountable to the voters. This man has been elected President. He carried all but just a few States in the election. We should not destroy his ability to govern. Are we not questioning his ability to govern here when we will not let him name his own Cabinet?

Here is one of the most important Cabinet members we have, Secretary of Defense. He has to take the steps to keep this country strong. The only way we can have our freedom is to keep this country strong from a defense standpoint. I say we should do it.

Mr. Bush knows what he is doing. Mr. Bush has known Tower longer than you have or I have or any Member of this Senate. And he picked him above all people as the man he wanted to be Secretary of Defense.

Now, is this not going to be a partisan embarrassment to the President of the United States over the world? What is Mrs. Thatcher of Great Britain going to think about this? What is Mr. Mitterand of France going to think about it? What is Mr. Kohl of Germany going to think about it? What is Mr. Gorbachev of the Soviet Union going to think about it? That here the leader of the free world cannot even get a member of his Cabinet confirmed. I think it weakens him in the eyes of the world. Have we thought about what effect that is going to have on our new President who is just going into office?

Mr. President, I commend Senator HEFLIN for going along on this nomination, although he is in the minority, and any others who have gone along here with him. Mr. HEFLIN says, "I am going to give him the benefit of the doubt." That is what he is doing. Why should others not give him the benefit of the doubt if they have a doubt? There should not be any doubt here, but if they should have it, why not give him the benefit of the doubt?

In closing, Mr. President, I wish to say that if I did not have anything else to say in behalf of John Tower, this letter right here ought to convince the Members of this Senate to confirm him. I received this letter and I believe other Members received it. It was written March 6. This letter is from P.X. Kelley. The letter reads:

Last Wednesday, 19 retired Generals and Admirals from the Army, Navy, Air Force, and Marine Corps, all of whom have known the Honorable John Tower for many years, forwarded a telegram to the Commander-in-Chief of the Armed Forces, strongly supporting the nomination for Secretary of Defense of this exceptional American. I believe that this act is unprecedented in the history of our Country, and have attached a copy of the text for your examination.

Now, this is John Kelley speaking.

I have known Senator Tower professionally, socially, and personally for over a decade, and one of my sincerest regrets is that I retired before having an opportunity to serve under him while he is our Secretary of Defense. It is my strong conviction that history will identify him as one of the greatest patriots and statesmen of our generation.

I urge you to judge Senator Tower on his unique professional qualification to lead our defense establishment. The young men and women who today are serving in the uniform of their Country deserve to have John Tower at the helm.

I am sending this same letter to all members of the United States Senate.

This letter was sent to President Bush by these retired people. All of them are four-star admirals and generals except two, and they are three-star people. They know John Tower. They would not put out a letter and take any part in a political matter here if they did not feel it was very urgent. They would not subject themselves to criticism and any action that they might be threatened with because they are doing this. Here is what they say:

To the President:

We have served as General and Flag Officers in the Armed Forces of the United States.

We commanded the military forces upon whose successful performance the security of the American people depends.

We know John Tower well, and have known him for many years.

In our relationships with John Tower, we have found him to be superbly qualified in every respect, both professionally and personally, to serve the Nation as Secretary of Defense and in the chain-of-command. We would be honored to serve under him, and the uniformed men and women of our country would unquestionably benefit from his leadership.

We strongly support your nomination of this exceptional American.

That is signed by: Gen. Robert H. Barrow, USMC (ret.), former Commandant of the Marine Corps; Gen. Richard E. Cavazos, USA (ret.), former Commanding General, Forces Command; Gen. Bennie L. Davis, USAF (ret.), former Commander in Chief, Strategic Air Command; and, Gen. Raymond G. Davis, USMC (ret.) former Assistant Commandant of the Marine Corps and Medal of Honor recipient.

I just want to pause there for a minute. There are two of those in here, two Medal of Honor recipients. Do my colleagues think they would come out just to endorse Tower unless they were convinced he was the man this country needed to become Secretary of Defense? These are men who went over and beyond the call of duty and risked their lives for the country. Here are these people endorsing John Tower:

Gen. Charles A. Gabriel, USAF (ret.), former Chief of Staff of the Air Force; Adm. Thomas B. Hayward, USN (ret.), former Chief of Naval Operations; Lt. Gen. James F. Hollingsworth, USA (ret.), former Commanding General, I Corps, Korea; Adm. James L. Holloway III, USN (ret.) former Chief of Naval Operations; Gen. Samuel Jaskilka, USMC (ret.), former Assistant Commandant of the Marine Corps; Gen. Paul X. Kelley, USMC (ret.), former Commandant of the Marine Corps; Adm. George E.R. Kinnear II, USN (ret.), former U.S. Representative, NATO Military Committee; Gen. William A. Knowlton, USA (ret.), former U.S. Representative, NATO Military Committee; Adm. Wesley L. McDonald, USN (ret.), former Supreme Allied Commander Atlantic and Commander in Chief Atlantic; Gen. Bryce Poe, USAF (ret.), former Commander, Air Force Logistics Command; Gen. John Roberts, USAF (ret.), former Commander, Air Training Command; Lt. Gen. Thomas R. Stafford, USAF (ret.), former Astronaut; Gen. William C. Westmoreland, USA (ret.), former Chief of Staff of the Army; Gen. Louis H. Wilson, USMC (ret.), former Commandant of the Marine Corps and Medal of Honor recipient; Adm. Elmo R. Zumwalt, Jr., USN (ret.), former Chief of Naval Operations.

These are people who have no ax to grind, none in the world. They are retired. Nobody can hurt them because of taking this stand. If they had been on active duty they could not take this stand. They are retired now.

Why would they have voluntarily come in and sent this letter to the President unless they felt very strongly that John Tower was the outstanding man to be the Secretary of Defense?

I hope my colleagues will think over this matter. I hope they will give it attention. They may have said they will go one way or the other. I hope they will pray over this matter and I hope they will reconsider their position and determine, after thinking it over very well, in considering all of these charges and innuendoes and gossip and the perception that has gone out, and vote for John Tower.

He is the man to be Secretary of Defense. The President has appointed him, the Commander in Chief. The Senate should confirm him. There is no reason not to confirm him. And I say to you who cast a vote against him today I believe someday you are going to live to regret that vote.

Again, I think we ought to confirm him promptly, put him to work. He knows this business. We need him in defense. Our country needs him and I hope we will stand by the President in his prerogative to appoint the man he

wants to serve as Secretary of Defense.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, we are trying to alternate back and forth on each side and I am going to yield for a very short statement, as I understand it, from my friend from New Mexico. It can be charged to our time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, as in legislative session, I would like to make a brief announcement. This afternoon, the Defense Industry and Technology Subcommittees of the Senate Armed Services Committee was planning to hold a hearing on the implications of the proposed FSX fighter agreement between the United States and Japan.

I believe that is a very important subject. The House Energy and Commerce Committee has already held a hearing on it. We had planned to have a very thorough discussion of the proposed FSX agreement with six witnesses. Three of the witnesses, including former Secretary of Defense Frank Carlucci, are in favor of the agreement as it stands. Three, including Clyde Prestowitz, former Counselor for Japan Affairs to the Secretary of Commerce, will express strong reservations about the agreement. I was expecting very good attendance at the hearing from Members on both sides of the aisle. This is not a partisan issue. Indeed, the administration itself is divided on the merits of the proposed agreement and Members from both sides of the aisle have expressed reservations regarding it.

Unfortunately, a member of the minority has objected to holding this hearing. That is his right under Senate rules. I have, therefore, rescheduled the hearing for 9:30 tomorrow morning in a room to be announced later in the afternoon. I regret the inconvenience to the witnesses, to those Members who were planning to attend, and to all others who were planning to sit in on the hearing. I hope that those interested will still be able to come to the rescheduled hearing tomorrow morning.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, if I could be indulged by my friend and colleague for just a 2-minute statement to comment on the remarks made by the distinguished Senator from South Carolina?

Mr. WARNER. Mr. President, I wonder if the distinguished Senator from Nebraska would forego to allow the Senator from Wyoming to engage in colloquy with the Senator who just spoke?

Mr. EXON. Equal time on both sides? Is that what my colleague had in mind? It would be perfectly all right with me.

Mr. WARNER. Mr. President, I think Senator BINGAMAN had spoken. I now ask Senator WALLOP on my time be given such time as he desires.

Mr. EXON. Certainly. No problem.

Mr. WALLOP. Mr. President, let me begin by saying that I regret that the Senator from New Mexico seems, in a way, to have taken this personally. Nothing personal was intended. But this is an important debate on the nomination of John Tower. The vote is to be held this afternoon. I have a deep-felt responsibility to be a part of that debate. There is no time urgency on the FSX matter. The administration itself does not yet have its policy laid down.

I spoke to the Senator earlier about the possibility of delaying it until after this week and the John Tower nomination in hopes and in anticipation that the administration would have their position established so that we could comment on the reality of something instead of the wraith or speculation about something.

I am sorry that we are going to have it tomorrow because the administration will not be able to present its side of the story. I will certainly be there. But it seems to me it is still premature. But no affront was meant or intended to the Senator from New Mexico.

DEPARTMENT OF DEFENSE

NOMINATION OF JOHN G. TOWER TO BE SECRETARY OF DEFENSE

Mr. EXON. Mr. President, I am going to be very brief. I just wanted to make a comment after listening to the excellent remarks by the Senator from South Carolina. The Senator from South Carolina and I worked very closely together on national defense matters and have for a long time. There is no one in this body that I have more respect for than Senator THURMOND.

I just wanted to point out that I join with him in expressing the regrets that I think we all have at a few totally ridiculous, unfounded charges that somehow leaked to the press. That was most unfair to John Tower. I have said this publicly before, and I say it again here now. We feel as badly as the supporters of John Tower about matters that were alluded to, and correctly alluded to, by my colleague from South Carolina. That is an unfortunate part of the process.

I just want to say, speaking for this one Senator, that as bad as those things were, they had nothing whatsoever to do with the determination that this Senator made to oppose the Tower nomination. I just wanted to try to place that in somewhat of a context. There were other things that fortunately have not leaked from the FBI report, or other sources, I might add, that were most unfortunate, in some cases. But there are many things that were not leaked on which this Senator, and I suspect many others, based their eventual decision. I yield the floor.

Mr. McCAIN. Will the Senator yield for a question? I guess not.

Mr. WARNER. Mr. President, I am not certain the Senator from Nebraska heard the request of the Senator from Arizona.

Mr. McCAIN. I asked if the Senator from Nebraska would y eld for a question before he yielded t ıe floor?

Mr. EXON. If we split the time.

Mr. McCAIN. I thank the Senator from Nebraska.

Mr. WARNER. Mr. President, I am happy to give the Senator from Arizona what time he requires for the purpose of the colloquy.

Mr. McCAIN. I will respond to my distinguished friend from Virginia that there is very limited time. I will not take that time. It is clear on the other side there is ample time. I regret the Senator from Nebraska would not respond to a question, but I do not choose to take time from the many speakers who are here on this side of the aisle. I thank my friend from Virginia.

Mr. EXON. I am sorry, we have calls on our time. That is why I am extremely brief. If you have time, I will be glad to sneak in time from our side. Otherwise, let us proceed on the basis to which we agreed.

Mr. WARNER. The Senator from Virginia yields 5 minutes to the Senator from South Dakota.

Mr. PRESSLER. Will my friend make it 10 minutes?

Mr. WARNER. Mr. President, I strongly urge my friend to do the best he can to continue to condense his remarks in a period less than 10 minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, for some time I have been very concerned about the B-1B bomber. It is an issue in my State that is very much in the news. A B-1B bomber crashed near Rapid City, SD recently. I think the B-1B is a good aircraft, but there is a strong feeling among experts that it must be fixed.

I had discussions this week with a number of administration officials. I talked with Brent Scowcroft 2 days ago and he assured me that the administration is committed to fixing the electronic system in the B-1B bomber. This is the type of issue I had tried to

bring to the forefront of this debate—defense procurement reform.

This is the third time I've spoken during these proceedings. I made it clear in my second speech that I had read the FBI file, I had looked into the allegations, and I felt that John Tower was being treated unfairly in that area. The personal allegations are not my main concern. My main concern has been defense procurement reform so we can avoid in the future the type of problems illustrated by the B-1B bomber.

I want the B-1B to be a good plane. Of the 100 planes produced, three of them have crashed. There is much controversy over this. I have met with the B-1B pilots and with citizens' groups who are concerned about these problems. The most important issue in defense today is reforming the Pentagon—putting a different culture in place.

I have talked to many over the past week, including John Tower and Brent Scowcroft. The process of a Senator making a decision involves a lot of thought, but it is also an opportunity to have meetings with literally anybody in the Government. My interests have been centered on the implementation of the reforms proposed by the Packard Commission and other reports. Congress itself has to implement some reforms through legislation.

Last weekend I had the opportunity to visit the Air Force Academy and met with many of the cadets. They marveled at the fact that there was very little discussion of strategic planning in this debate. It all seemed to be centered on the FBI report. I explained that I was trying to have a debate on contractor reform. But the Senate has chosen instead to focus its attention almost entirely on the FBI report.

I had a meeting this week with Brent Scowcroft, who I think speaks for the administration in depth on some of these procurement reform issues more than any other person. His job as National Security Adviser and his background give him the knowledge to really get into detail. I have the highest regard for him. That discussion went a long way in convincing me that the administration's current management review and Pentagon reform process will produce some meaningful results.

After that meeting and follow-up discussions with the White House, I believe that we are going to see some real Pentagon reforms, whether Senator Tower or some other Bush appointee becomes Secretary of Defense. General Scowcroft also assured me that the administration is committed to fixing the problems of the B-1B bomber. This program is just one example of what happens when the Pentagon does not exercise responsible management over the procurement process. The problems we have had with the electronic countermeasures on the B-1B are important to me since one-third of the B-1B force is stationed in South Dakota.

Mr. President, I think that in the process of this decisionmaking, I have accomplished something. That is to let the administration and my colleagues know how strongly the people in my State feel about the issue of contractor reform. Unfortunately, that is not what this debate on the floor of the Senate has been about. This debate has not been on any military issue. Instead, it has boiled down to an FBI report. That is what we are talking about here. That is what the country has heard. So the question is, the FBI report on John Tower accurate? I went into it with an open mind and, as many others found, one after another of the allegations in that report were discredited. Some of the toughest things in that report proved not to be true.

The various meetings and discussions that I have had this week indicate my wish to work closely with this administration. I want George Bush to have a good start. While I would have preferred to have a different nominee, and I have said so, I am now convinced the vote we are casting is not on the merits or issues surrounding that office. The question has boiled down to the validity of an FBI report. In that specific area, I am convinced John Tower has been treated unfairly. As I checked out allegation after allegation, they proved to be wrong. Mr. President, for that reason I will be casting a vote—Yea.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received this morning from National Security Adviser Brent Scowcroft.

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

THE WHITE HOUSE,
Washington, March 9, 1989.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR LARRY: In view of your concerns regarding the implementation of meaningful reforms in the defense procurement process, I would like to take this opportunity to reiterate the President's commitment to such reforms and to encourage Congressional participation in the reform process.

A defense management review is currently under way and will report its findings this spring. None of the efforts in this area will be cursory. I agree with you that it is important Congress and the American people understand and believe that we are serious about reform. I am sure we also agree that Congress and the Administration must work together to achieve this goal.

The President appreciates your commitment to establishing greater accountability in the defense procurement system. We look forward to working with you in pursuant of this common goal.

Sincerely,

BRENT SCOWCROFT.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first I wish to compliment the minority leader, Senator DOLE, in this effort, and also Senator WARNER, for their efforts. I see my friend Senator WALLOP and Senator STEVENS have been here as well. Senator MCCAIN, Senator COHEN, Senator RUDMAN—there have been several Senators who have done yeoman work in trying to get the public record out. I think they have done a good job.

I think they have done a good job in exploiting the unfairness of a lot of this confirmation process for John Tower. I started to say for our friend John Tower. A lot of times we use that word rather loosely in the Senate. We usually apply it to all colleagues. I do not think John Tower is being treated as a friend. As a matter of fact, I think he has been treated unfairly.

Throughout this entire confirmation process I think it has been unfair. There have been allegations made. Those allegations would show up on the front pages of the newspapers and they would be on the nightly news. It turns out they would not be substantiated. We would have extensive FBI examinations, and we find out those allegations would not be substantiated, but really they were not refuted. When they were not substantiated, that was not on the front page of the newspaper. When they were not substantiated, that was not on the nightly news. It happened time and time again.

It is really a case of character assassination. Maybe some of it from committees, some of it from leaks, some of it from speculation, some of it from unsubstantiated reports and anonymous phone calls, et cetera. That is very unfortunate because I think John Tower could be an outstanding Secretary of Defense. I wish that he would be confirmed today, although that is not likely.

I happen to have known John Tower for several years, and so I was concerned and maybe somewhat surprised about the statements that were made. So I went to the intelligence room, and I read the report. I read almost all the pages, hundreds of pages, and spent quite a bit of time. I was amazed that every time I would find an allegation, when you studied it far enough, there was no substance to the allegation, time and time again, allegation after allegation. When I read the report, I really am surprised that the Armed Services Committee voted as they did. Surprised and I also say disappointed. I happen to have known John Tower not only from the FBI report but I

have known him, really, I guess fairly well, since 1980, and served several years with him in the U.S. Senate. I have never ever seen John Tower in any type of capacity that would embarrass the Senate. I have known John Tower since he was working and confirmed as one of our arms control negotiators in Geneva. I visited him many times, as did many of my colleagues, and I never saw him in any capacity that would be embarrassing to the Senate or to our Government. As a matter of fact, it was just the opposite. When you would see John Tower walk into the room and meet with Soviet negotiators, there was a great deal of respect shown. People knew that he knew his subject, people on both sides, I am talking about in the United States and the Soviet Union. He commanded respect.

We are not showing that respect today. I think that is unfortunate. He commanded respect when he was chairman of the Armed Services Committee because of his knowledge. He would not make the faulty mistakes that we have made in the last couple of years, in my opinion, in the Armed Services Committee and therefore on the floor of the Senate in unilateral concessions on the ABM Treaty. He would not agree to a strict interpretation of the ABM Treaty unless the Soviet Union would do likewise. They have not been doing likewise but yet the Armed Services Committee put that mandate in, in the last Congress.

The same with the INF Treaty. He would not agree to making unilateral concessions, yet we put a statement in the INF Treaty that said, well, if that statement was made to the U.S. Senate, we are going to abide by it even if the Soviet Union does not agree to it.

John Tower would try to make sure in any of our negotiations that any treaty provision would apply to the Soviet Union as well as to the United States. He would be very forceful, very knowledgeable. I do not think we have heard anyone contest that in any respect.

I am very disappointed and disillusioned by the action this Senate has taken in the confirmation process. I think it has been unfair. I think we have done damage to a person who has served this country quite well in the last 24 years. I will vote for John Tower and I hope the majority of my colleagues will do likewise.

Mr. WARNER. Mr. President, I express appreciation on behalf of Senator Tower to the sentiments expressed by the Senator from Oklahoma.

Mr. President, I wish to advise my Republican colleagues that the time remaining under the control of the Senator from Virginia is less than 40 minutes. I am prepared to forgo the time that I have reserved for myself so that others may speak. I will, however, reserve at least 12 minutes for the Republican leader. So I ask each Senator, recognizing that, to speak in such order as they may wish for periods not to exceed 3 minutes. I yield to the Senator from Maine, Mr. COHEN.

Mr. COHEN. What was the request?

Mr. WARNER. I ask for the time being if Senators might speak for 3 to 5 minutes at maximum.

Mr. COHEN. I thank the Senator for yielding. I will try to be very brief.

Yesterday, my good friend from Maine in a very light moment suggested perhaps I was engaged in a filibuster. I had a lot to say. Unfortunately, I do not have much more time to say it this afternoon. All of us I think are consumed by headlines and editorials and I received my share of negative ones. But one suggested that I was trying to close the door on alcoholism in the Senate. The writer of that particular editorial, of course, is entitled to his opinion but not to his facts.

What I have been trying to do is to open the doors of this Senate Chamber to due process, to fair play, to a sense of decency. Some have suggested I am acting out of pure loyalty to the President and my party. I find it strange that when I oppose a Republican President, it is a matter of principle. But when I support him, it is a matter of party. I am standing here to support a matter of fundamental principle.

I received a letter from a man, responsible individual, who said, "You can tell John Tower is an alcoholic. Just look at his puffy face and, by the way, he chain-smokes cigarettes in the back of his limousine going to the White House."

I am trying to open the doors of this Chamber so we can stand in opposition to that kind of standard of judgment. It reminds me of the story of the stranger who was convicted of first-degree murder rather than manslaughter. Why? Because the jurors were told that he smoked cigarettes at his mother's funeral, that he did not weep and that he drank coffee in the anteroom waiting for the funeral services to go forward. Anyone who could do that must have murder in his heart. Appearances dictated judgment.

What have we here? Some kind of existential stranger walking through our midst for the past 24 years? Most of us never knew him? Many never liked him? And a majority are now going to repudiate him?

I am objecting to a report, Mr. President, which I find to be an exercise in sophistry, that says that we are concerned about fairness, about treatment of women in our military. We are all concerned about that. Why was that raised in the report? Not a single shred of evidence was offered that John Tower has ever acted unfairly or with bias toward women in his employment and yet the implication was we are concerned that he will not carry out his duties with fairness and impartiality to women in the military.

That ignores a letter signed by 140 or 150 past members of his staff who testify to the contrary. I am objecting to a report which says that he could serve as no role model for the men and women in our military and yet ignores the statements by some of our most distinguished military leaders just to the contrary. I am offended by a report which states that the committee has no evidence that John Tower ever gave classified information to his defense clients. No evidence. That is a false statement.

John Tower's uncontradicted testimony said he never gave any classified or confidential information to any of the defense firms that hired him. Uncontradicted testimony. But then the report concludes, well, he has the appearance, however, that he may have compromised that confidential information and that is what now disqualifies him.

Well, how does that standard apply to the members who serve on the Armed Services Committee, the Finance Committee, the Agriculture Committee, the various committees that solicit political contributions from various organizations?

If I may have 1 additional minute.

Mr. WARNER. Mr. President, I ask such additional time as the Senator may require.

Mr. COHEN. Do those Members now maintain well, those contributions are just too minor, too meager to have any influence upon my judgment? I hope they will tell that to the political action committees the next time they solicit moneys in the heat of their next campaigns. We do not have the weight of the evidence, but weight of the allegations. We have public opinion polls that conclude John Tower should be rejected. We have one public witness. The rest are found in FBI files. They are unidentified and uncross-examined. Is there a single Member in this Chamber who would have himself or herself judged in a public body before a national audience, indeed an international audience, on an FBI file? Is that the weight of the evidence that is so reliable and credible? Mr. President, there is a softness in our record, a softness, I say, Mr. President. No minds are going to be changed. The votes are in. I would only conclude by quoting from Reverend Hale. He said, "This is a strange time, Mister. No man may longer doubt the powers of the dark are gathered in monstrous attack upon this village. There is too much evidence now to deny it."

I thank the Chair for his indulgence.

Mr. WARNER. Mr. President, does the Senator from Arizona desire time at this point?

Mr. McCAIN. Yes, I do.

Mr. WARNER. To be followed by the Senator from Washington, to be followed by the Senator from Wyoming.

Mr. President, I yield such time as the Senator may require, hoping that he will limit his remarks to less than 5 minutes.

Mr. McCAIN. Mr. President, I thank my friend from Virginia, and I appreciate the excellent work and hard work he has done in this very bitter and unfortunate struggle.

I also would like to express my deep admiration for Senator DOLE, our leader, who has fought with tenacity, courage and dedication against obviously odds that were not in his favor.

I would also like to say a word about President Bush. Many people will criticize President Bush for not having cut loose John Tower earlier in this debacle. I would suggest that George Bush's loyalty to his friend of longstanding will stand in testimony to the nature of the man and his belief in loyalty to his friends, which is a scarce commodity in this town as we have seen by this process.

Mr. President, if there is ever living embodiment of Harry Truman's words, "If you want to have a friend in Washington, go out and buy a dog," is this process that we have observed where erstwhile friends who lauded and praised Senator John Tower for many years now have turned against him with spite and malice.

Mr. President, Ernest Hemingway defined courage as grace under pressure. No Cabinet nominee has ever faced as much pressure as John Tower has faced, pressure which has been ill-founded, ill-conceived, perhaps ill-intentioned and unfair. No man has ever handled such unfairness, such personal attacks, such pressure with as much grace as John Tower.

John Tower is a courageous man. He is a great man that would have been a superb Secretary of Defense. Today, this institution is making a grave mistake, and we are all, along with the Nation, suffering an enormous loss. President Bush has lost the man he wanted to help lead this Nation's defense policies into the next decade.

The country has lost the service of a man without peer in his ability to perform that job and make this Nation more secure in a physically sound manner. The Senate has also lost. It has lost its fairness, its respect for propriety, and its bipartisanship on defense issues. It has lost its sense of historical precedent, and it has lost its institutional humility, confusing the issue of whether it has the power to veto a nominee and whether it should exercise that power.

Mr. President, Senator Tower has lost his nomination but he still has his integrity. The majority here has won the political battle but they have lost the moral and ethical war. History will certainly judge this as one of the Senate's least proud moments, and this nomination will soon be history. But Americans today and tomorrow should reflect on John Tower's "grace under pressure," and his "courage," for, as President John Kennedy stated:

> A nation which has forgotten the quality of courage which in the past has been brought to public life is not as likely to insist upon or reward that quality in its chosen leaders today—and in fact we have forgotten.

Mr. President, oh, we have forgotten far too much.

Now the burden is on all of us—all of us losers in this fight—to realize there were no winners here today and to move forward together in a constructive bipartisan way. A house divided falls. None of us should want to promote that fall, so we must promote the alternative, a return to bipartisan respect for cooperation by partners in national security.

Mr. President, in closing, I would like to relate one personal anecdote concerning my relationship with John Tower. As many may know, I have known and traveled with John Tower on numerous occasions over the past 12 years. We have met with kings, princes, sultans, and prime ministers throughout the world. At all times John Tower was treated with respect, and he handled himself with dignity.

John Tower always included me in whatever meeting it was, no matter who it was with—I will never forget that—except when John Tower was visiting a naval installation. And when we would do that, John Tower invariably would go down and visit with the chief petty officer of whatever naval command or ship in which we were visiting.

One day in 1981, we went to a naval installation and John Tower went down to meet with the chief petty officers, and the admiration and respect which the chief petty officers in the Navy had for the man, the only Member of Congress, who was a chief petty officer, enlisted man, was literally without bounds.

After a couple of hours I went down to the chief petty officers' mess to get John Tower because we had another engagement. As I did so, we were leaving the room, and a very large chief petty officer, barrel chested, about twice the size of John Tower, with his chest covered with medals, and tatoos up and down his arms, came over and put his arm around John Tower, and said: "God bless you, John Tower. You are a damned fine sailor."

John Tower, is defeated today, but he is not bowed. He comes out of this terrible experience a greater and better man, and a man who I hope someday will be able to continue the magnificent services that he has made to his country in the past. I hope he will have that capability in the future.

To John Tower, all of us who have known and loved him, we say, "God bless you, John Tower. You are a damned fine sailor."

Mr. WARNER. Mr. President, we thank the Senator from Arizona. I particularly thank him for the remarks on behalf of the Senator from Virginia.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the outcome of this debate regrettably is now set. It becomes in these last statements, a time for reflection.

I want to join my friend, the Senator from Arizona, in pointing out to the Members of this body, to the people of this country, that in this debate there have been many losers and few if any winners. First and foremost, our country is a loser. It has lost a uniquely qualified candidate for Secretary of Defense, perhaps the single individual best able to deal with the new challenges of the late eighties and nineties, different relations with the Soviet Union, declining defense budgets, and challenges of defense contracting.

To have had the experience John Tower has and now to give that up for someone who will have less experience and less decisiveness will be a true loss to this country.

The President, in one narrow sense, not the sense spoken of in the newspapers, is also a loser, has lost time with respect to his Department of Defense, and he has lost the desired counsel of a wise and valued friend.

The chairman of the Armed Services Committee, who will be victorious in his vote later this afternoon, is also a loser, having lost much of his reputation for thoughtful and nonpartisan leadership in defense issues, and will have lost some of the collegiality for which the Armed Services Committee has so long been noted.

The distinguished new majority leader will be a loser, having lost much of the good will with which he began his stint as majority leader on both sides of the aisle, and perhaps some of his ability to deal with some of the issues which will come before us in the coming months by reason of whatever residual bitterness is left over after this debate.

Many Members of the majority party are losers, Members who particularly wanted privately to vote for John Tower but who are constrained by party discipline not to do so against their better judgment.

The Senate as a whole is a loser in this battle, having misused the confirmation process, using FBI files not as cause for a face-to-face investigation and confrontation with various accusa-

tions, but as a substitute for the truth without any significant check.

The Senate is a loser for setting after-the-fact rules of conduct both personal and professional, and the Senate is a loser by reason of the increased partisanship resulting from this battle.

John Tower, of course, personally is a loser, and an unjustified loser after 26 to 28 years in the service to this country. One hopes after all of these losses, however, Mr. President, that there will be some lessons regained in this body, lessons of the necessity for civility, for fairness and fair treatment, and for due process.

This was not an intentional course of action but it is one which requires us to rethink the entire process by which we deal with issues of this nature.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it is lost on the majority that an election took place, an election in which one man in America was elected at large. Many men in America have been elected by a significantly narrower constituency, but only one man is elected by us all.

In this process, the Senate has lost its sense of responsibility—it has long since been lost in the majority—which now seeks to capture to itself a role for which it was never designed and cannot take responsibility, to say nothing of accountability. Only one man in America is going to be judged on the success or failure of the defense policy of America, and it is not going to be the chairman of the Armed Services Committee. It is going to be the President of the United States.

Try as he will, Senator NUNN cannot be accountable for the successes or failures of America's defense, challenges in NATO, and America's challenges by the Soviet Union, and America's role in keeping peace at home and abroad.

The Senate seeks to capture a role, as I said, for which it was never designed. The proof of that is, Mr. President, that this Senate has spent no time talking about defense. Everybody sees John Tower's expertise in defense, but nobody cares about defense. They care about power, and power is being sought, and power is being won.

No, Mr. President, this has not been a debate about America's defense needs and whether the nominee whom the President has chosen to address them in his behalf understands them and can address them. The debate has avoided such issues because it is less concerned about fear of John Tower's incompetence than fear of John Tower's competence. As my friend from Washington said, the President and the country are the losers.

Senator HEFLIN, the distinguished Senator from Alabama, who made the point very clearly, having reviewed the record and finding nothing disabling in John Tower's past, said that, while he may not have chosen him, this is the President's Cabinet, not the Congress' Cabinet.

Make no mistake about it: Only the President is going to be held accountable in the eyes of history and in the eyes of Americans. So, shielded from any responsibility or accountability, this Senate majority seeks to take the power of the Secretary of Defense away from the President unto itself.

I do not know how we got into this position. I do not know how, in conscience, people could take the life of a good man, who has served his country for over a third of a century, and sully it and toss it like a rag into the garbage in the street. I do not know how it is possible to do that without even a tossed look of remorse over the shoulder.

All we heard is pain: "This hurts me more than most." But it has not been difficult to arrive at this partisan moment, as was witnessed the night in which the committee cast its vote. I said then I do not know whether to weep or rage. I say again today, I rage today, and I will weep tomorrow for a man who is a friend; but I have to rage at a Senate that has lost its sense of responsibility, its sense of fairness, and certainly will never willingly shoulder accountability.

The last thing this body wants is to be held accountable. It hides under the cloak of majority votes, the roles of each one of us, and in this single instance, the role of one man has been supreme to the will of the majority, and the will of the President of the United States.

As the Senator from Idaho said, this has not been the Senate's finest hour. Those of us who are friends to John Tower will remain that, but I hope those who see a career ruined will, at some moment in the night, turn over in bed and wonder what it is and whether it was necessary to do that to the President of the United States and to a man who stood in this body as friend to many of us. I think he now knows exactly who those friends may be.

Mr. President, what has occurred in the Senate over the last month is a travesty of justice. It was an attempt—apparently successful—to end a long and distinguished political career—and for what? Totally empty allegations made by incompetents repeated often enough that they become what I call factoids: facts without substance. But far worse than the destruction of a good man's career, this is unquestionably a tremendous embarrassment for the Armed Services Committee and the Senate as a whole. The nominations process is now a tool of intrigue, of connivance, of arrogance, and of raw political power. The rights and responsibilities accorded to the Senate by the American Constitution have been grossly distorted.

And why? Is this limited to the man, John Tower himself, as the chairman of the Armed Services Committee has said? Clearly not. Beneath the scurrilous debate over drinking and womanizing, and conjured up conflict of interest, lies a more fundamental debate over American defense policy. What is at issue here, Mr. President, is not whether John Tower may have had one too many on occasion, but how many and what kinds of weapons we will equip our Armed Forces with. What is at stake today is not whether John Tower may have handled some woman in a restaurant that cannot be remembered on a date that cannot be recalled by people who won't be named. No, sir. It is who will handle the Department of Defense, the newly elected President, or the Congress?

What is at issue is not whether we will set higher standards for the Secretary of Defense than we will for ourselves. But whether we will establish a wholly new set of standards hitherto unknown in the advice and consent process. What is at issue here is not whether perception is reality in politics, but whether this Senate will abandon 200 years of precedent and distinguished history and decide that we are unfit to distinguish between fact and fiction.

This is not a dispute over John Tower's supposed personal failings and indiscretions, or conflict of interest, but a struggle between those who would control the Pentagon for their own purposes, and the President, recently elected by the American people because he, not his Democratic opponent, best represented their views on defense.

What has happened here is that the Democrats, led by the chairman of the Armed Services Committee, have forgotten who won the national election. This is the President's nominee. It is not for the Democrats to decide who will or will not be the Secretary of Defense. The Senate's role is confined to determining if there are any overriding reasons why this man, or any man, should not take the office the President nominated him for.

So what are the overriding reasons? Where are the allegations that concern the Senators that voted against him? What proof is there for these allegations? Have they been corroborated by outside witnesses? Of what caliber?

Anyone who has read the FBI report can come to only one conclusion: that it is filled with allegations—and let's be clear what that word means. Webster's defines an allegation as, "a statement offered without proof, as an

excuse or plea; mere assertion. An assertion made by a party which must be proved or supported with evidence." The FBI report is filled with these allegations, but the evidence to support them is not there. They are in large part groundless. Those who have made them either have ulterior motives or lack the credibility to be taken seriously. None, and I repeat, none, of the allegations can be corroborated.

And what of those who have testified to the qualification of Senator Tower? Why have they been so carefully ignored in this process? Why have some of the most respected members of the American policy been overlooked in favor of the words of a few who have little or no credibility? I have a letter here from 19 distinguished members of the political community, all of whom have impeccable reputations, and all of whom have known and worked with John Tower throughout much of his 26 years of public service. All of them just happen to be women. They include Ambassador Anne Armstrong, Secretary of Labor Elizabeth Dole, U.S. Trade Representative Carla Hills, Ambassador Jeane Kirkpatrick, former Assistant Secretary of Health and Human Services Cynthia Root Moran, and Mrs. Nancy Kissinger, among others.

Why is the credibility of these professional women, many who have made it to the top in their professions, held below that of so-called unnamed sources who refuse to be identified? What about the credibility of the distinguished Senator from Texas, Mr. BENTSEN, the Democrats' nominee for Vice President. He introduced Senator Tower in the most confident and complimentary terms. Are we to give equal weight, nay, greater weight, to those who want to remain anonymous than to these distinguished Americans. What can we say about the credibility of these sources? Might they not have political scores to settle with Senator Tower?

It is clear from the majority report that they never intended to treat John Tower fairly. Let me just quote from a few of the findings of the report. On page 10 the report states, "the committee searched in vain for a point in time when the nominee himself acknowledged this problem and dealt with it decisively. The nominee made it very clear that he has never sought medical assistance for his drinking problem." In a court of law, any good judge would sustain an objection against his statement. Why? Because the committee never established that John Tower has a drinking problem. We know that he drinks. So do I. So does the Senator from Maine. So does the Senator from Nebraska, and the Senator from Massachusetts.

As the Senator from Maine, Mr. COHEN, stated earlier, I am sure if Mr. Tower had admitted a drinking problem the majority would have noted that in their report and determined that he did not deal with it "decisively."

In fact, this is obvious that since Mr. Tower pledged not to drink during his tenure as Secretary of Defense, certain Members of the majority party claimed that he had finally admitted his problem because anyone who would say that must have one. Hogwash! Senator Tower's pledge was aimed at the perception that the majority and the media have created of him, not the reality of the situation. He has no drinking problem and never in his 24 years of service in the Senate or as an Ambassador overseas was there even one time when he was unable to execute his responsibilities, and I might note, with considerable skill.

On conflict of interest, we are told that Senator Tower's work for defense contractors represents a conflict of interest with his current duties. Did John Tower violate any laws? No. Did he violate any Federal regulations? No. What did he do wrong? Well some regard the mere fact that his company made $1 million in 2½ years working for defense contractors as reason enough to vote for him. Would they similarly vote against such distinguished Americans as Harold Brown, Robert McNamara, and many others who have worked for or represented defense contractors in the past? Was their objectivity clouded by their relationship with the defense world? No, we heaped praise on them as having bona fides in both the political and business worlds.

Indeed, John Tower is one of the few Members of the Senate of his day that did not retire substantially richer than when he came here. The committee's finding on this issue was, Senator Tower showed poor judgment by placing himself in a situation in which there was such an obvious tension between the information he acquired as an arms control negotiator and his obligation to his consulting clients.

But it goes on to say, the committee has no evidence that Senator Tower provided his clients with classified information. In the committee judgment, however, this situation created the appearance of using public office for private gain and casts doubt on his ability to command public office confidence in the integrity of the defense acquisition process. Whose judgment? What standards are we setting here? Are we to totally eliminate the possibility that those who know the most about the defense acquisition business are, by definition, the least qualified by our standards to be Secretary of Defense? What an absurdity?

Finally, the charges in the majority's report on so-called womanizing are fatuous. The report states that there are no findings of liaisons with female foreign nationals and, hence, no security violations that such activities would entail. Nor does the record support the allegation that the nominee exerted sexual pressure on employees and associates of the opposite sex. Well the majority has been hiding behind that statement for the last week. But based on groundless allegation and innuendo, they felt comfortable in the very next sentence to state: There are, however, a number of examples of personal conduct which the committee found indiscreet and which call into question Senator Tower's judgment. These examples add to the cumulative body of concern the committee has about this information. Well that's just fine.

We can't find anything that John Tower did wrong, but we find his actions—actions that not one Member of the Senate has seen with his own eyes despite over 650 man-years of contact with the nominee—to be indiscreet. Indiscreet? What is one man's indiscretion is another's joke or jibe. Shall we deny the President his choice for Secretary of Defense because a few Members of the Senate have decided that uncorroborated allegations represent an indiscretion? Are we not grasping at straws here to find any excuse other than the real ones to vote against the President's nominee?

No, Mr. President, the real reasons are painfully obvious, and they are becoming more and more obvious to the American people as time goes on. John Tower is unacceptable to the majority because he is good at what he does: Because he is knowledgeable and courageous, and will stand up to a Congress that has run amok in its meddling in the Defense Establishment; because he strongly supports the development of weapons systems, like the MX missile and a strategic defense, which the American people voted for in President Bush, and which his Democratic opposition vigorously opposed.

The mood is very somber in this town today. The rules of the game have been changed forever. No longer is there a presumption of innocence behind the Senate's investigation of a nominee. No longer is the credibility of evidence to be taken into account.

You are now guilty as you stand before us, and anyone who cares to make an accusation against you, no matter how mean or unsubstantiated, will have the undivided attention of this body. It is un-American to be guilty until proven innocent, but that is what has happened to John Tower. The mere repetition of allegations without substance, such that they take on a life of their own, is enough to indict, try, and pronounce guilt. As George Will said so poignantly in a column in the Washington Post, not smoking guns but empty cartridges are

the perfect ammunition for character assassinations, in the tradition of former Senators McCarthy and Jenner and others.

Mr. President, the rules have changed forever. We have no need of smoking guns to ruin a man's career anymore, just enough smoke to cover the vicious, partisan intentions of those who would seek to run the executive branch from Capitol Hill.

Mr. President, at the vote in the Armed Services Committee I said that I didn't know whether to weep or to rage at how my good friend, and a great American, former Senator John G. Tower has been treated.

Last night, Mr. President, when it became clear that the Democratic leadership had successfully twisted a sufficient number of arms to get the votes to deny Senator Tower the position in President Bush's administration he is uniquely qualified to fill, I felt like raging. But today, Mr. President, after further reflection last night, I overwhelmingly feel sadness.

Sadness at the unfair and partisan sullying of a great American, John Tower. Sadness at how a new President, recently elected by the American people by an overwhelming electoral victory, can be manhandled by a Senate majority party bent on wresting control of the Department of Defense from the executive. Sadness at how the Senate's distinguished history can be so tarnished in this year of the 200th anniversary of the Constitution.

Mr. WARNER. Mr. President, I yield 3 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank my friend from Virginia.

Mr. President, 3 minutes does not allow anyone to say what they would of John Tower and his courage. He has come to this nomination, better prepared to serve as Secretary of Defense than any other man or woman in the history of this Nation, and, yet, he will be the first in the history of this Nation to be rejected as the nominee of a first-term President, a new President, elected by the people of the United States.

We are busy on this floor, so we tend to miss what our colleagues do from time to time. I missed the speech of the Senator from Georgia, the chairman of the committee. I am told that he asked a rhetorical question: "Where were Senators who now complain of a lack of fairness in this process? We heard nothing of it before the night of the vote."

He evidently was busy and missed the complaints that many of us were airing long before that. A good week before that, this Senator, on a national program, "Nightline," and another, "Night Watch," complained bitterly, and with ample justification, of the lack of fairness. This has been a confirmation process corrupted, contaminated, hijacked by character assassination, by the cowardly leakage of unsubstantiated allegations.

We have said so repeatedly. This is not a fresh or new complaint, but this instance is a fresh, new, and an evil, ugly and dangerous precedent for the United States. The victim is not just John Tower, as the Senate has heard, not just George Bush, but also the American people, who have been deprived of this candidate, who is more qualified, smarter, tougher, more experienced than any other in our history.

Mr. President, to create or permit the creation of a false perception, as has occurred in this instance, and then to cite that false perception as the reason or, more accurately, the rationalization for a vote against confirmation, is not to exercise the leadership the American people elected us to exercise. It is not the exercise of courage to accept false perception, rather than to pursue truth. It is not justice. It is a failure of justice, as it is a failure of leadership and courage to do so.

By our vote this afternoon, the Senate will stand condemned of those failures. But two have shown courage. Two have shown remarkable courage and, as my friend from Arizona stated, grace under fire: John Tower and George Bush, the President of the United States, who nominated him, and who has stuck by his nominee through this long, dark night of character assassination. They have shown the world what moral courage means. Yes, it would have been very easy for either to withdraw from this fight, but they have stood, instead, and made the fight. It may be that John Tower will be the loser in his last fight in the U.S. Senate because he won so many before and lost so few. Apparently, the bruises have not yet healed.

Mr. President, I ask 1 minute more, by unanimous consent.

More important than any of this—and obviously we have great feeling about this man—this process has been the victim, and it must be cured. The Senator from Arizona has evidently introduced legislation that would change the process. In the instance of confirmation of the nomination of the President of the United States for the post of Secretary of Defense, I believe that in the future we cannot rely on the past. We must rely upon sworn witnesses, who can be cross-examined, because we must get the truth and not some perception, some appearance, created by a process that is untruthful.

That, Mr. President, is unfinished business that we cannot allow to go unaddressed.

Mr. WARNER. The Senator from Virginia inquires as to the balance of the time remaining?

The PRESIDING OFFICER. Eighteen minutes, forty seconds.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

Mr. President, it has been argued that opponents of this nomination are creating a new standard for this nomination.

The history of the Senate confirmations show otherwise. Throughout the years, Senators, including Senator Tower, have voted against Presidential nominees, based on their conscientious judgment that a nominee could not effectively lead the Department to which he or she had been nominated.

I want to just share with you just one example from history.

Charles Warren was narrowly rejected by the Senate in 1925 to be President Coolidge's Attorney General because of the appearance that his close association with the Sugar Trust would prevent him from impartially enforcing the antitrust laws.

Warren, it so happens, was from Michigan. He was a lawyer who, by the time his name was sent to the Senate for confirmation as Attorney General, had twice been confirmed by the Senate for Ambassadorships and was reported to have served with distinction.

Prior to that, however, he had been involved in the Sugar Trust of the early 1900's, and it was that involvement—the appearance created by his connection with the Sugar Trust although he had violated no law—that was the principal basis for the Senate's rejection.

The public and political reaction to the tactics and purposes of the corporate trusts had resulted in tougher antitrust laws. But that was only after major economic damage had already been done.

Warren's chief supporter in the Senate, Senator Cummins, from Iowa, pointed out that Warren's actions on behalf of the Sugar Trust in the early 1900's were not illegal at the time and that he should not be judged by what Senator Cummins said was the new standard of the 1920's.

The majority of the Senate disagreed. They determined that the public would not have confidence that Warren would be an effective enforcer of the antitrust laws as Attorney General and, therefore, should not be confirmed.

Mr. President, that is not dissimilar from the position, I have taken with regard to Senator Tower.

One of the reasons that I have decided to vote against his confirmation is that I am not satisfied he could effectively restore public confidence in the procurement practices of the Department of Defense.

The arguments in support of Mr. Warren back in 1925, also sound familiar. Here is a description of Senator Cummins' defense of Mr. Warren from a 1961 Arizona Law Review article by Louis C. James:

Senator Cummins, Republican of Iowa, was Warren's leading proponent. He had known the nominee for more than twenty years and had found him a capable and moral citizen. Warren had previously been confirmed by the Senate as ambassador to Japan and to Mexico, in which positions he had rendered meritorious service. These confirmations had been made since the Sugar Trust dissolution suit of 1910 * * * Cummins stated that * * * (t)he real issue involved would amuse any man. It was that some time in the future a case "might" arise that "might" call for Warren's prosecution and he "might" not perform his duty because of former connections. Warren had conducted himself well on every occasion of his employment by the Government (Cummins said). Facts and not hypothecations should govern the minds of men.

That was the argument of the proponents of Charles Warren and that surely sounds familiar to the arguments of the proponents of Senator Tower here in this confirmation proceeding.

The Warren confirmation is enlightening as an example in which the Senate asserted its constitutional responsibility to defeat a cabinet nominee because it did not have confidence that he would be effective in running his department.

As it happens, both of Michigan's Senators opposed the nomination of Charles Warren although he was from Michigan, Senator Couzens' statement is not dissimilar from my own feelings about the nomination before us.

Senator Couzens said:

Mr. President, in view of the fact that Mr. Charles Beecher Warren is from my home State, and I have been personally and intimately acquainted with him for 20 years, nothing would give me greater pleasure than to be able to stand upon this floor and urge with all of my power his confirmation. * * * I would rather stand upon the floor of the Senate and talk for somebody and for something than to stand here and talk against anybody or anything.

He went on:

But, Mr. President, on this question I feel so keenly that I am convinced I should not let the matter come to a vote without expressing not only my personal feelings, but I am sure I am expressing the feelings of my colleague from Michigan (Mr. Ferris). * * * We do not believe that Charles Warren would elicit public confidence, and if there is any one thing the Government needs at this particular time it is that the great masses of the people should have confidence in their Government.

Senator Couzens went on:

I would not hesitate particularly to put Mr. Warren in the Department of Justice if I were going to have the right to watch him and follow him. I would not hesitate to declare that he might under those circumstances do his duty. But we have 110,000,000 citizens who must have confidence that the laws are going to be enforced, and I want to say that the American public will not have confidence if Mr. Warren is placed at the head of the Department of Justice.

Mr. President, that statement was made on the floor of the Senate in 1925. We now have 250 million citizens in these United States, but the principle is the same. To paraphrase my predecessor from Michigan, if there is any one thing the Pentagon needs at this particular time it is that the great mass of Americans regain confidence in Pentagon procurement practices. One of the reasons for lack of public confidence in procurement at the Pentagon is the way Pentagon officials go through the revolving door with inside information about Pentagon plans and programs and promptly hire themselves out as consultants to or employees of contractors who could use that information. Further paraphrasing my predecessor, Senator Couzens, I do not believe the American people will have adequate confidence if Mr. Tower is placed at the head of the Department of Defense.

A critically important job for the next Secretary of Defense is restoring the public's and Congress' confidence in the procurement operations of the Pentagon. Given the Senate Armed Services Committee's hearing record and given John Tower's background of working as a consultant to some of our biggest defense contractors, promptly after whirling through the revolving door with great speed right after he departed as our lead negotiator at the START talks, his acknowledgment that he advised these companies specifically on their future product development as it was linked to his predicted outcome of the START talks—given that, Mr. President, I do not believe Senator Tower can effectively restore public confidence in procurement practices at the Pentagon at this time.

It has also been said that Senator Tower did what lots of others do. The Washington Post editorial put it more cynically when it said that Senator Tower's hiring out to private defense contractors so immediately upon leaving his job as a arms control negotiator in Geneva was undignified and rotten behavior but, the Post quickly added, it was just about par for the course in these matters. In other words, lots of others do what Senator Tower did, the Post said.

I do not believe it was par for the course. There were a number of distinctive aspects to what Senator Tower did when he went through the revolving door.

First was the type of information he brought with him. Second was the type of advice he gave to his clients. Third was the fact that he hired on as a key assistant on arms control matters at Tower Associates a former key employee at the START talks who remained on the rolls as a consultant to the delegation in Geneva. Fourth was the fact that Senator Tower does not see the poor appearance that was created. Fifth is the fact that if confirmed as Secretary of Defense, he would be put in charge of addressing the very appearance problem that he does not see. Sixth, he considers the propriety of providing an opinion to private clients based on confidential information as a grey area.

Let me elaborate on each of these points.

First, as our chief negotiator at the START talks, Senator Tower was privy to the most confidential information regarding our negotiating position on the very same weapons systems on which he later advised his clients.

Second, he described the nature of his advice to these clients—leading defense contractors on these critical weapon systems—as enlightened advice on product development—that is, the effect of his predicted outcome of the ongoing confidential START talks on the very same products being developed by those contractors.

Third, Senator Tower told the Senate Armed Services Committee that he "wasn't privy to the negotiations after (he) departed"——

The PRESIDING OFFICER. The Senator should note that he has spoken for 10 minutes.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield myself 5 more minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEVIN. Mr. President, as I indicated, Senator Tower told the Senate Armed Services Committee that he was not privy to the negotiations after he departed and that "the only information he had available to him was in the public domain."

It turns out, a year after he left the START talks, he brought on the staff of Tower Associates the executive secretary to the U.S. START delegation, Michelle G. Markhoff. She was privy to the negotiations during the time period after Senator Tower left the talks and before she came to Tower Associates. She also remained listed as a consultant to the State Department on those negotiations after she left the negotiations to join Tower Associates.

Fourth, Senator Tower says he does not see an appearance problem in his consulting role. I not only see an appearance problem, I see a problem with Senator Tower's inability to see the appearance problem inherent in advising private clients on the likely outcome of confidential talks as they affect their product line, when he is privy to confidential material of value

to those clients but wasn't supposed to share it with them.

Do appearances count in restoring credibility to Pentagon procurement practices? Well, there has been a lot about "Do appearances count?" The answer is, they do count.

Executive Order 11222 directs all Federal employees to "avoid any action, whether or not specifically prohibited [by the order] which might result in, or create the appearance of using public office for private gain."

And President Bush said:

The guiding principle [of his Administration] will be simply to act in accordance with what is right and to avoid even the appearance of what is wrong.

Fifth, Senator Tower is now being proposed as the person to clean up the Pentagon's procurement practices, part of which clean-up must include addressing the revolving door problem that continues to undermine public confidence in those practices. Without awareness of the ongoing revolving door problem, there is less chance of restoring credibility to the procurement process.

Sixth, Senator Tower believes that whether or not one can properly provide advice to ones clients based on confidential information is "a grey area," providing the confidential information itself is not disclosed.

I disagree.

I believe such advice must be based on nonconfidential information. Certainly it is true that proving the basis of the advice may be difficult, but I believe the basis of the advice to a client cannot be confidential information obtained while in Government service. This may be a theoretical difference with Senator Tower since he says his advice was based on publicly known information. But it is an important difference nonetheless.

Some have urged in counterargument that Senator Tower did not violate a law, and I have said I am certainly willing to assume that. In fact, I assume all the nominees that a President sends to the Senate have not engaged in illegal behavior or else he would not be nominating them. But our function in determining the fitness of a particular person to effectively lead an agency is surely not limited to assuring ourselves that the nominee has not violated the law.

I voted against Ed Meese for Attorney General, even though an investigation by Independent Counsel had just found him unindictable, because I believed that there was sufficient doubt raised as to his sensitivity to ethical issues and because he was evasive on a number of questions which had been presented to him.

I voted against James Watt to be Secretary of the Interior not because he had broken a law, but because I did not believe he could effectively lead the Department.

Senator Tower himself voted against a nominee because he believed the nominee "exercised poor judgment," even though the President who submitted the nomination had confidence in the judgment of the nominee. He voted against another nominee—Dr. Ray Marshall to be Secretary of Labor—whom he described as an "intelligent, able, educated man," because he did not believe he could effectively lead that Department.

So, Mr. President, there have been many votes by both Republicans and Democrats against Presidential Cabinet nominees before. Opposition to Senator Tower's nomination is clearly within the Senate's historical approach to its advice and consent responsibility. More important, perhaps, opposition to this nomination is based on the same depth of conscience as is the support for this nomination.

As we heal the wounds in this body—and they will be healed because we are all people of goodwill in this body—we should all remember that the people who stand in opposition to this nominee do so with the same depth of conscience as those who stand in support of this nominee.

Senator Walsh of Montana, in his opening statement on the floor of the Senate against the nomination of Charles Warren, summed up the role of the Senate as follows:

Mr. President, the founders of our Government, the framers of our Constitution, deemed it unwise to trust unrestrictedly to any one man the appointment of any of the principal officers of the Government, and accordingly provided that in the case of all nominations made by the President of the United States confirmation by the Senate should be necessary, except in the case of such inferior officers as Congress might provide should be appointed by the President alone, by the courts, or by the heads of the departments. The responsibility, accordingly, for the appointment of all the Federal officers where confirmation is necessary rests upon this body jointly with the President of the United States. Whether equally or in lesser degree it is unnecessary to canvass. It is indisputable that we share that responsibility and that we must assume it, at least in part. * * *

Another former colleague of ours made the following observations on the confirmation process:

It seems to me that we have a responsibility under Article II of the Constitution to take part in what is, in effect, a two-pronged appointment process, a process in which the power of appointment is clearly divided, one part being the power of nomination, which is assigned to the President, and the other part being confirmation, which is assigned to the Senate.

We are not given this power just as a matter of show, of exhibition; we are not given this power just so that we have something to do to fill in these days. This is a serious responsibility, and it is one I think we have to discharge in a serious way.

I know the question will be raised here today, as it has been in the press today and in the last few days on the subject of comity with the Executive, of what we owe to a President to accede to his wishes, to give him officers to carry out his administration with whom he is comfortable and in whom he has particular personal confidence.

Of course, this argument is made very strongly when we are in a honeymoon and, I think, it is not without some force. But on the other hand, I think we have to remind ourselves it is not the President's qualifications that are under review here today; it is the qualifications of his nominee.

What was said years ago is true today. The responsibility we have to reach the best judgment we can on the acceptability of a nominee, whatever our own flaws and however imperfect the process, is as unshakeable today as it was then. As long as article II, section 2 of the Constitution stands unamended, our responsibility will stand. We cannot duck it by undue deference to the President. We owe the President leeway but not obeisance, and not the leeway required by this nomination for this position at this time.

Mr. President, I ask unanimous consent that a letter from the State Department to Senator NUNN be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, DC, March 7, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: I am responding on behalf of Secretary Baker to your letter of March 3. Enclosed please find answers prepared by the Department in response to the questions contained within your letter.

I hope this information will be of use to you.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

Enclosure: As stated.

Q1. Did Ms. Markoff retain her security clearance after she resigned her position as Executive Secretary for the U.S. START delegation in Geneva and went to work for Senator Tower's consulting firm? If so, why was it not terminated by the State Department?

A. Yes—Ms. Markoff retained her security clearances after resigning. Ms. Markoff was retained on the Department rolls as a consultant with continued security clearance at the request of Ambassador Lehman in order to have her available as needed to provide for a smooth transition with the new Executive Secretary, which might have required Ms. Markoff to consult with the Negotiating Group members and the new Executive Secretary on administrative matters, and to have continued access to her technical expertise on an as needed basis. However, our records indicate that she never worked for the Department under this appointment.

Q2. Was Ms. Markoff maintained on the rolls of the State Department as a consultant—paid or otherwise—after she left the Delegation in 1987?

A. Yes—Ms. Markoff was maintained on the rolls as a Consultant, Without Compensation (WOC), although our records indicate that she never worked under this appointment.

Q3. If so, what was her job description? If it included responsibilities in the area of arms control, did the State Department know that Ms. Markoff was working for a consulting firm which provided them with advice on how probable arms control outcomes would affect their product lines?

A. A copy of Ms. Markoff's position description as a consultant is attached. Ms. Markoff's prospective employment with the John Tower Associates, Inc. Consulting Firm was fully disclosed to the Department when it retained Ms. Markoff as a consultant. Ms. Markoff was maintained on the rolls subject to the requirement that she not participate as a Department consultant in any particular matter in which any firm in which she owned stock or with which she was affiliated had a financial interest.

As a consultant to the START Negotiating Group, Ms. Michele G. Markoff will advise the Ambassador and Members of the negotiating group on matters involving the negotiations with the Soviet Union on strategic offensive nuclear arms. This includes, but is not limited to, the political and security implications of U.S. and Soviet arms control proposals, the relationship of the START negotiations with those on Intermediate Range Nuclear Weapons (INF) and Defense and Space (D&S) and the historical perspective concerning previous negotiations. Additionally, Ms. Markoff will advise the Executive Secretary of the Start Negotiating Group concerning the administration of the Group. This includes, but is not limited to, format and scheduling of official meetings with the Soviet Negotiating Group, proper utilization of administrative support and personnel, record keeping, creation and transmission of cables, and the format and scheduling of formal and informal social engagements.

Q4. What do State Department policies and regulations stipulate with regard to possible conflicts of interest involving consultants.

A. A consultant is subject to the ethical responsibilities of a special government employee. Department regulations (22 CFR Section 10.735-301 and following) define the ethical requirements applicable to special government employees while serving the government. A copy of these regulations is attached for your reference:

SUBPART C—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES

§ 10.735-301 Conflicts of interest.

Special Government employees are subject to the conflicts of interest statutes (18 U.S.C. 202). An explanation of these conflicts of interest statutes their effects upon special Government employees and guidelines for obtaining and utilizing the services of special Government employees are in Appendix C of Chapter 735 of the Federal Personnel Manual. A special Government employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with Government duties and responsibilities.

§ 10.735-302 Use of Government employment.

A special Government employee shall not use Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 10.735-303 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of Government employment for private gain for the employee or another person either by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may engage in teaching, lecturing, or writing that is not prohibited by law, Executive Order 11222 or the restrictions in this part; however, a special Government employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available, or when the head of the agency gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. A special Government employee who wishes to request the agency head to authorize the use of nonpublic information should submit such request through the Counselor. The request should contain complete information concerning the nonpublic information which the employee wishes to disclose and should contain in addition an indication of the intended use of such information and how disclosure of it would be in the public interest.

§ 10.735-304 Coercion.

A special Government employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 10.735-305 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with Government employment, shall not receive or solicit from a person having business with the employee's agency anything of value as a gift, gratuity, loan, entertainment, or favor for the employee or another person, particularly one with whom the employee has family, business or financial ties.

(b) The exceptions to the prohibition against the acceptance of gifts which have been granted to employees in § 10.735-202 (b), (c), and (d) are also applicable to special Government employees.

(c) A special Government employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342, and the regulations promulgated thereunder pursuant to E.O. 11320; 31 FR 15789. These regulations are set forth in Part 3 of this title (as added, 32 FR 6569, April 28, 1967), and in 3 FAM 621.

(d) A special Government employee shall avoid any action, whether or not specifically prohibited by these sections on special Government employees, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 10.735-306. Miscellaneous statutory provisions.

Each special Government employee shall become acquainted with each statute that relates to the employee's ethical and other conduct as a special Government employee of an agency and of the Government. The attention of special Government employees is directed to the statutes listed in § 10.735-216.

Q5. What, if any, was the nature of Ms. Markoff's involvement with the State Department after she left the START Delegation? For example, did she attend classified or unclassified seminars, submit any work products, or participate in task forces or group reviews of specific issues of policies?

A. As previously explained, while she agreed to serve as a Department consultant without pay if needed, our records indicate that her services were never used. She, therefore, did not attend classified or unclassified seminars, did not submit work products, and did not participate in task forces or group reviews. However, it is important to note that many experts, who currently work outside of government, are carried as unpaid consultants so their security clearance can be kept current. This procedure provides needed flexibility to complete special projects, staff task forces, etc., by retaining the availability of these individuals without incurring additional cost or lengthy delays to complete required security clearance procedures once their services were needed. It must be understood that having a security clearance does not automatically provide access to classified material. In all cases access is to be granted on a strict need-to-know basis.

Q6. What was the date of Ms. Markoff's visit in 1987 to the U.S. Delegation in Geneva? Were there any other visits by her between the time she left the Delegation and the end of 1988

A. We understand that Ms. Markoff visited Geneva from June 8 to June 13, 1987. She came to Geneva for a vacation, to pick up some personal belongings, and to discuss research on a book concerning Executive-Legislative relations. We are aware of no other visit to Geneva between the time she left the Negotiating Group and the end of 1988.

Q7. Was the visit arranged directly between Ms. Markoff and friends and former colleagues on the Delegation, or was a request for support and assistance in Geneva made by the State Department on behalf of Ms. Markoff? If so, are copies of any relevant cable traffic retained in State Department files?

A. Ms. Markoff personally arranged her visit. No formal request for support was made on her behalf.

Q8. Was Ms. Markoff assigned a "control officer" or point of contact for her visit to Geneva, or where all appointments arranged by her directly?

A. Ms. Markoff arranged her own appointments and was not assigned a control officer.

Q9. Was Ms. Markoff afforded any logistics support in Geneva? For example, did the U.S. Mission obtain hotel accommodations for her at the "embassy rate?" Did she have access to and privileges in the embassy convenience store? Were Mission vehicles made available for her use?

A. The Negotiating Group did not provide logistical support for Ms. Markoff in

Geneva, either to obtain hotel accommodations or to provide Mission cars for her use. It cannot be ascertained if she used the Mission convenience store during her visit.

Q10. Which Members on the Delegations were involved in Ms. Markoff's discussions?

A. During her visit, Ms. Markoff met with the Chief INF Negotiator, Ambassador Maynard Glitman; the then Chief START Negotiator, Ambassador Ronald Lehman; the then Deputy START Negotiator, Ambassador S. Read Hanmer; and the then START Executive Secretary, Patrick Moon. She also had social meetings with members of Ambassador Lehman's staff.

Q11. Did Senator Tower retain his security clearance after he resigned his position as Chief START Negotiator? If so, what duties required his retention of a clearance?

A. Senator Tower did not retain his Department of State security clearance after he resigned. His security clearance terminated on April 1, 1986.

Q12. Did Senator Tower visit Geneva in May 1986 or at any other time subsequent to his service as Chief START Negotiator?

A. Senator Tower was in Geneva from May 23 to May 26, 1986. He met socially with members of the START Delegation at that time. He made no other visits to Geneva.

Q13. Was the visit arranged directly between Senator Tower and friends and former colleagues on the Delegation, or was a request for support and assistance in Geneva made by the State Department on behalf of Senator Tower? If so, are copies of any relevant cable traffic retained in State Department files?

A. Senator Tower arranged his visit directly. No formal request for support was made.

Q14. Was Senator Tower assigned a "control officer" or point of contact for his visit to Geneva, or were all appointments arranged by him directly?

A. Senator Tower was not assigned a control officer. He met socially with friends who were assigned to the START Negotiating Group. No formal appointments were made.

Q15. Did Senator Tower conduct any discussions with members of the Delegation in Geneva in the delegation buildings? If so, did any occur in the secure rooms in the building?

A. Senator Tower did not visit any U.S. Government facilities while he was in Geneva. He had unclassified conversations with Ambassadors Lehman and Hanmer and other individuals on the START Negotiating Group at social engagements during his visit.

Q16. Which Members on the Delegations were involved in Senator Tower's discussions?

A. Senator Tower spoke with Ambassadors Lehman and Hanmer and some other individuals on the START Negotiating Group.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I am happy to yield 5 minutes to my friend from Vermont. Let me say I am grateful to him for his understanding that I be allowed to finish.

Mr. LEAHY. Mr. President, I appreciate the comments of the Senator from Michigan. I am in no particular hurry, but it just seemed like a good time to step in.

Mr. President, the nomination of Senator John Tower to be Secretary of Defense has become the first major controversy of the Bush administration. Charges and countercharges of partisanship, hypocrisy, and bad faith are being hurled from the White House to Capitol Hill and back again.

The debate in the Senate has been as personal and acrimonious as any I can remember in my 14 years in this body.

And while things may get worse before they get better—and I am confident they will get better—it is important that we have this debate.

Mr. President, I will vote against the nomination of Senator Tower to be Secretary of Defense.

It is not easy to vote against a man with whom I served for many years in the U.S. Senate. I do so only after long hours of reflection and study of the record.

Before I explain why I can not vote to confirm John Tower to be the next Secretary of Defense, I want to talk for a few minutes about what this debate is not about.

Contrary to what many are claiming, this debate is not about partisanship. The Senate Armed Services Committee has conducted itself in a professional, thorough, and objective manner, as is its responsibility under the Constitution. A failure to exhaustively examine Senator Tower's record—both public and private—would have done a disservice to all Senators who do not sit on the Armed Services Committee, and, quite frankly, to the American people.

Controversy has dogged the Tower nomination almost since his name first surfaced as a probable nominee for Defense shortly after election day. For well over a month before President-elect Bush announced Tower's nomination, rumors swirled from within his inner circle that such a decision could turn into a problem.

Let us remember that it was conservative activist Paul Weyrich—not Armed Services Committee Democrats—who publicly raised questions about Senator Tower's private life.

And it wasn't Democratic committee members who brought forth allegations about Senator Tower's financial affairs to the Justice Department and Boyden Gray—charges that were serious enough to delay completion of the final FBI report on Senator Tower.

No. There has been no partisan witch hunt. Democrats on the Senate Armed Services Committee simply did not allow themselves to be stampeded into taking precipitous action on such an important nomination.

This debate is about Senator Tower's fitness for office, and the Senate's duty to fulfill its advice and consent obligations as outlined in the Constitution.

Much has been made about Senator Tower's drinking habits—and how they have changed, or not changed over the years. I agree with Senator NUNN and others who contributed to the report of the Senate Armed Services Committee: there has been a disturbing pattern to reports that Senator Tower has misused alcohol for years, including in the recent past.

Senator Tower and his doctors say there is no problem. Senator Tower has even gone so far as to promise not to have another drink so long as he serves as Defense Secretary, and that is commendable and I have no reason not to believe him.

But sobriety is not the only prerequisite for the job of Secretary of Defense.

The next Secretary of Defense must have personal and professional rectitude worthy of an office whose occupant is in the military chain of command. He must have the trust not only of the President and his colleagues in the Cabinet. He must have the trust of the 1,000,000 civilian and over 2,000,000 active military personnel of the Department of Defense. He must have the trust of the American people.

Mr. President, I do not believe Senator Tower is the right person for this job.

Public trust in the Pentagon may be at its nadir when one heaps the ill-wind procurement scandal on top of the pile of overpriced toilet seats and coffee pots. Today the perception exists—quite rightly, I believe—that the American taxpayers have not received a dollar's worth of defense for every tax dollar they pay.

Far from it. Images abound of mismanagement inside the Pentagon and rapacious defense contractors. This threatens the bipartisan consensus necessary for us to buy the weapons we need and the necessary equipment and supplies for our men and women in uniform.

And that is not all. I am just as concerned with morale in the Pentagon as I am about my public consensus that exists today. Mr. President, you and I know that for every greedy weapons contractor or defense official, there are literally thousands of Americans working to defend our country who are motivated by pride, patriotism and a sense of obligation to protect our democracy. I fear that morale in the Pentagon has hit rock bottom.

This brings me to Senator John Tower. I served with Senator Tower on the Armed Services Committee for a number of years. Few people know the defense business better than he does. I have respected him as a competent professional who has served his country with distinction on a number of occasions.

What concerns me the most about the Tower nomination was the so-called revolving door issue, whereby Pentagon employees frequently leave their jobs for careers in industry, and

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make small fortunes with troubling alacrity.

Senator Tower's case is particularly troubling. By going to work immediately after leaving the START delegation for defense industries with a direct interest in the outcome of the Geneva arms talks, Senator Tower, in my mind, crossed a line into improper—though not illegal—behavior. By making nearly $1,000,000 in 2 years, knowing all the while that returning to the Federal Government was more than a possibility, Senator Tower showed a fundamental lapse in judgment.

In the words of the report of the Senate Armed Services Committee: "His post-START consulting employment reflected insensitivity to the appearance that he had used inside information for private gain. His activities would weaken public confidence that defense acquisition decisions will be based solely on the public interest."

For this reason in particular, but not alone, I will vote against Senator Tower. President Bush should move surely and swiftly on a nominee who will restore strong management to the Pentagon, and have the trust of the American people.

One final note: I want to personally thank Senator NUNN for his thoughtful, deliberate, and decisive way he handled this nomination. As sometimes happens in this body, when one side comes up short on the merits of an issue, motives begin to be questioned and names are called. Partisan criticism aside, Sentor NUNN has done a great service to this country. The U.S. Senate is immeasurably enhanced by his presence.

Mr. President, we all know how the voting is going to go today, but I also hear a lot of discussions about what else this vote means. I would like to speak about a few things this vote does not mean.

I do not believe the pundits who say that any shred of bipartisanship will break down in this body after this vote.

I would just point to two items just today or my own experience. On one committee on which I serve, the President's nominee, a person who started out being very controversial as a nominee, was voted by the committee virtually unanimously. Not only that, unanimous consent has been granted by Democrats and Republicans alike to bring this nominee to the floor of the U.S. Senate later today. If there are 100 of us here, he will probably get 96, 97, 98 percent of the vote. That is bipartisanship.

I chaired a meeting on a very important issue to the country involving the commodity futures markets of this country. One of the things we tend to overlook is that in the rest of the Government, business goes on; in the rest of the Senate and House, business goes on. Now we stand in this debate.

This is something involving markets that handle hundreds of billions of dollars in a relatively short period of time each year here in the United States. I watched Republican and Democratic Senators reaching many of the same conclusions in an effort to make sure those markets are protected and that the administration's oversight of the CFDC continues to work and that the Democrats and Republicans in this great body send a message of support for the best way to make that work.

Again, bipartisanship. Nonpartisanship, in one sense; to make sure that the Government continues.

I have heard it discussed that the President should be automatically entitled to a nominee. Well, that is not what the Constitution says, nor is it what Senator Tower said on the floor of this Senate on occasion, or Senator THURMOND, or Senator NUNN, all of whom voted against Presidential nominees in the past.

When former Senator Muskie, a Member of this body, was up for confirmation to be Secretary of State, it was then private citizen George Bush who said that we should vote against Edmund Muskie because of policy differences. Not because he disagreed that he was a fine man. In fact, he went out of his way to praise him as such. But on policy differences.

Also, the President's defense policy is not going to be judged by this. The President's defense policy is going to be judged by the President's defense policy. It is as simple as that. The Secretary of Defense will carry out the policy of the President of the United States. The President of the United States will enunciate his policy. His next appointee, if confirmed, will then be sent there to carry that out and at the end of the year President Bush will not be judged on this battle. President Bush will be judged, at the end of the year, at the end of his term, on what was ultimately his defense policy and what were the talents and philosophy brought to that defense policy by his confirmed appointee, the Secretary of Defense.

Last, I might ask, will the President and the Congress now agree or disagree for the rest of the year? The answer is "yes." In some areas we will agree, as we will on one nomination this afternoon. We will disagree on another. But, like the whole sense of advice and consent, that is also part of the Constitution. It is part of the checks and balances which made this country the oldest existing democracy today.

So those are points that I think are perhaps self-evident but seem to have been lost in the debate and in some of the coverage of the debate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. WALLOP. I would observe that President Bush's defense policy will be judged whether or not he has the opportunity to articulate one. It will be his, whether the Senate Armed Services Committee is the defense policy expert or the President is.

This has not been a debate about America's defense needs and whether the nominee whom the President has chosen to address them in his behalf understands them and can address them.

The debate has avoided such issues principally because it is less concerned about fears of John Tower's incompetence than fear of John Tower's competence.

I yield 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased to have heard the last two statements. My comment is short, but I want the Senate to know that whether there is bipartisanship here depends upon the majority. It is not a responsibility of the minority. The majority sets the tone in the Senate.

I just had a call from a friend of many years, and in the course of the conversation he said to me: you just do not know what you are doing. Where are you going to get people to take jobs like this? You are about ready to turn down a person who served 24 years in the Senate, and the majority says it is not political. If it were political, people would understand it. If it is substantive, what in the world could lead to the judgment that a man who served here 24 years, who is a renowned expert in defense should not be the Secretary of Defense, based on what is in that file upstairs?.

Mr. President, I find that argument to be a good one, and I hope the majority knows what it is doing. For the first time in 200 years an incoming President will not get the Cabinet of his choice. On January 20, 1969, we stood here and watched every Cabinet officer confirmed within minutes after the President was sworn in, except one, and that was my Governor, and he was sworn in about 6 weeks later.

This is the first time in the history of the Republic that the Senate has turned down a former Senator, except for the one time in the period coming out of the War Between the States.

I think that, really, what we have to do is find a way to convince people it is political. They would understand it then. And I wish the majority would admit it. Because it is political to me.

I think the Senate should know that bipartisanship is not automatically going to be restored. Unless the major-

ity wants it restored. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, the majority has the principal time remaining. I ask unanimous consent that the time remaining on the minority side be reserved for the minority leader and that without regard to any quorum call.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object. My good friend from Wyoming knows I was off the floor and just got volunteered to sit here in the Chair so I am not sure just what the procedure was before. As I understand it there is a vote scheduled for 4 o'clock; is that correct?

Mr. WALLOP. That is correct. The vote is locked in.

Mr. LEAHY. I am not going to object. I just do not know the agreement.

Mr. WALLOP. I am clearly not trying to get it past the vote at 4 o'clock but the minority leader has been articulate and graceful in this.

Mr. LEAHY. I have no objection. My friend from Wyoming knows I just stepped in. I am not a member of the committee. I just want to make sure I know what is going on.

I have no objection to it. Certainly both the minority and the majority leaders, I am sure, would want to be able to have a final word in this.

I have no objection.

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

Mr. LEAHY. Mr. President, parliamentary inquiry, if a quorum call now would be judged to be charged to the majority? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. How much time is remaining to the majority?

The PRESIDING OFFICER. Fifty-nine minutes and twenty-six seconds.

Mr. LEAHY. 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. LEAHY. 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. LEAHY. Mr. President, the distinguished Senator from Wyoming had made in his unanimous-consent request that the time be reserved for the distinguished Republican leader. I ask unanimous consent that an equal amount of our time be reserved for the distinguished Democratic leader.

Mr. WALLOP. I have no objection, Mr. President.

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

Mr. LEAHY. Mr. President, I understand now we still have about 50 some-odd minutes?

The PRESIDING OFFICER. Fifty-four minutes, including that reserved for the leaders.

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

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

Mr. CHAFEE. Mr. President, I ask if the distinguished representative of the majority will yield me 4 minutes.

Mr. LEVIN. I will, indeed. I will be happy to.

Mr. CHAFEE. Mr. President, as we near the end of the Tower confirmation debate, I certainly hope we will not rise and proclaim that this has shown the Senate at its best, that we vigorously debated and came to a conclusion in a difficult and contentious issue. In my judgment, this has not been the Senate at its best. It has been the Senate at close to its worst. Everyone has lost. If anyone can name a winner in the process over the last couple weeks, I do not know who it is. Certainly John Tower has lost, having his name plastered across front pages all cross the Nation as guilty of, as in this Washington Post, "drunkenness and harassment of women."

The President has lost, having had taken from him the person he felt was best qualified to run the Department of Defense. The Senate has lost. We have shown an inability to protect the nominee from calumny and trashing. Partisanship is clearly heavy in this debate and the prospective vote, despite the fact that Senator Tower served here for 24 years, was confirmed as an Ambassador to the arms negotiations, headed the Tower Commission, was highly praised for his conduct in all of these positions; despite the fact that everyone concedes that in a nomination such as this the benefit of the doubt goes to the nominee; despite the fact that every single charge against Senator Tower was either demonstrated to be highly unlikely to have occurred, or was rebutted by several witnesses present at the same occasion; despite all this, and I certainly recognize there are grounds for difference of opinion, that individuals can come to different conclusions, to have 52 out of 55 Democrats as it appears now who have come to the conclusion he is unfit to be confirmed is certainly unusual and strange. It seems to me, for reasons unknown, the Democrats have decided that as Democrats they will deny this nomination.

Now, the defense to all of this is, well, if there is partisanship, how about all the Republicans being for Senator Tower. That argument falls on its face. All agree that we should give the benefit of the doubt to the President's nominee. The heavy tilt as I say is for the nominee. The unusual action is to deny the nomination. The tilt is for, not against, the nominee.

In this affair, and I can call it a sad affair, the press has failed miserably, with the Washington Post running this article on its front page a week ago in the middle of the Senate's consideration of this matter: "Incidents at Defense Base Cited. Drunkenness, Harassment of Women Alleged"—totally disproved. It turns out it was highly unlikely that the individual who made these charges was even at the base at the time Senator Tower was suggested to have made the visits there. It seems to me this type of journalism belongs at the checkout counter of the Safeway next to the National Enquirer headline: "87-Year-Old Woman Marries 14-Year-Old Boy.".

However, life goes on. There will be other debates and other disagreements. It is my sincere hope, Mr. President, that the Senate will acquit itself in the future in a far better fashion than it has in this affair. I thank the Chair and I thank the distinguished Senator from Michigan for yielding me this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Who yields time for that purpose?

Mr. WALLOP. Mr. President, I believe there is a unanimous-consent agreement controlling time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent that the time for the quorum call come off of this side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the proceedings of the quorum call be suspended.

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

Mr. KERRY. Mr. President, I ask the distinguished manager if I might have 7 minutes.

Mr. LEVIN. I am happy to yield the Senator from Massachusetts 7 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, the nomination of John Tower to be Secretary of Defense has now consumed the energy, psychic, and political intellect of this body for weeks now, and it has so consumed the energy of the

President of the United States, indeed of the country. I think probably everything that can be said has been said. We all know where the votes are, as the minority leader has said on a number of occasions.

Mr. President, I would like to observe that in carrying out its responsibility for advise and consent under article II of the Constitution we have been consumed now in an increasingly ugly debate over the merits of John Tower for this job, and as we have descended into this maelstrom, work on vital issues to this country has been delayed, and sadly the spirit of bipartisan cooperation that the Congress and the President promised one another such a short time ago has been at least partially, and we hope only temporarily, dissipated in a cloud of bitterness.

I want to emphaize that this is not the course that most of us would have preferred not is it a course that is dictated by good politics of any kind. It is clear to me the majority on the Senate Armed Services Committee would have preferred to have been able to vote for this nominee. I know from talking to members of the committee that they would have approached and approached the initial deliberations with a mind to recommending the nominee to the Senate. That was the preferred outcome as we began the process. And to have been able to do so would have avoided what all of us have come to feel is an unseemly agony and acrimony.

But instead, after careful consideration of the public and private record, the majority of the committee chose to vote against him.

It is neither pleasant nor easy to vote against a former colleague. Perhaps more particularly a former distinguished chairman, and for lots of reasons, some of them obvious, some of them not so obvious.

I believe that this vote has been a vote not of partisanship, but a vote of conscience. I believe that the chairman of the Armed Services Committee, the distinguished Senator from Georgia, Senator NUNN, deserves respect, not vilification, for having carefully and judiciously proceeded to try to guarantee that there was an allowance for conscience to be able to speak in the U.S. Senate.

As I have announced previously, I share the belief that Senator Tower is not the right man for this job at this time. Unlike some of my colleagues, though, I do not base that belief on the FBI report, at least not principally. Senator Tower has taken a significant or earned a significant amount of money within a very small space of time from too many military contractors whom he now seeks to come back to be the chief regulator of. The appearance of conflict and the real conflict are simply too strong. This is particularly true when confronted with the fact that he refuses to recuse himself from matters that involve those people. At a time when the Pentagon is screaming for the toughest kind of judgments and leadership with respect to the procurement process, I simply believe this nomination is fatally flawed for that reason alone.

Only once before has my conscience dictated that I vote against a nominee for Cabinet of the President of the United States, and that was among my first votes as a Senator. That was to vote against the nomination of Ed Meese as Attorney General. I did so for reasons very similar to those that cause me to vote against Senator Tower. In the case of Mr. Meese, as we remember, many of us felt he had demonstrated a blindness to obvious conflicts of interest which should have disqualified him from that position. Subsequent events, including unprecedented criticism from members of the Justice Department, validated our judgment that he was unfit for that job. In the same fashion, Mr. President, I believe that the committee report has summarized this problem well. It said:

> Service as an arms control negotiator was followed soon thereafter by establishment of a consulting service in which he provided some of the Nation's largest defense contractors with advice about the probable outcomes of ongoing confidential arms control negotiations and the implications of such outcomes on future product development. Such activities reflect questionable judgment and weakened confidence in his commitment to the public interest.

The committee found that Senator Tower's decision to provide consulting services on arms control matters so soon after serving as an arms control negotiator crossed a line with regard to the revolving door. The committee found that Senator Tower "created the appearance of using public office for private gain."

Mr. President, others in Government have left public service and gone on to provide services for those they once regulated. But others are not seeking to go back yet again through the revolving door in order to return to become the regulator again. It seems to me that the decision once made is a decision that ought to be adhered to. I believe Senator Tower cannot credibly regulate at a time when he has shown that particular conflict.

The Secretary of Defense is supposed to provide leadership in cleaning up what is known as the ill-wind that has blown through the Pentagon. This nominee on the other hand spent 2 years between top Government national security positions leading military contractors to where the money was in effect showing them which way the wind was blowing.

The nomination of John Tower therefore unfortunately represents business as usual at a time when we cannot afford it.

The PRESIDING OFFICER. The Chair reminds the Senator from Massachusetts that his 7 minutes have expired.

Mr. KERRY. I do not know what the time is. Is there additional time?

Mr. NUNN. Can I give 1 more minute? We are going to run out of time.

Mr. KERRY. I do not want that to happen. I know the distinguished President pro tempore wants to speak. Let me just wrap up.

Mr. BYRD. Take an additional minute out of mine.

Mr. KERRY. I thank the distinguished President pro tempore.

Mr. President, as a former prosecutor, I was deeply troubled by the FBI report and by this process. That is one of the reasons why I chose to look mostly at the public record and make a judgment in this case. That is not to say that we should not or cannot make a judgment based on that report, and to a certain degree, I did. But I think the Senate would be well cautioned in the future to find ways in which we can avoid the kind of contentiousness that has arisen over this process.

I would also call to mind that I have heard my colleagues on the other side of the aisle talking about due process and beyond a reasonable doubt, and other standards of law. None of those are standards which apply here. This is not a court of law. We are not operating under rules of evidence. We have been elected by the people of this country to make a judgment of conscience and of rationality.

It is our job to use all the input in making that judgment—hearsay, uncorroborated reports, corroborated reports, evidence that is uncontested, and evidence that is contested.

I have tried to do that in this matter. I agree that John Tower has been somewhat the victim of that process. I think it is only fair for us on both sides of the aisle in order to guarantee the future integrity of this process to admit that, and to move on.

Finally, Mr. President, I would like to pay tribute to the distinguished ranking minority leader, Senator WARNER, to Senator NUNN whose leadership I have already mentioned, and to the majority leader, Senator MITCHELL, who has cut his teeth on the first significant issue in the Senate this year, with the kind of distinction that many of us who voted for him felt he should be the leader, would exhibit. I think the Senate has been well served by that leadership.

Mr. President, I will take no pleasure in voting against Senator Tower for the reasons I have enunciated. I believe the President is entitled to great deference in the selection of a Cabinet nominee.

I regret that in good conscience I cannot vote in favor of his choice.

But the record is clear—the charge by some that this rejection is a partisan move by the Democrats is a phony.

From the first, this nomination has been controversial. While Secretary of State Baker was nominated the day after the election of President Bush, the Tower nomination was held up for weeks last fall while the President waited for the FBI to complete its initial investigations. By early December, the press was asking whether the President was allowing John Tower to "twist in the wind." A typical article was one in Newsweek's issue of December 12, 1988, which stated "one question was whether Tower has already been damaged beyond repair."

When Newsweek was asking whether John Tower had already been damaged beyond repair, not a single Democrat had uttered a word of criticism of John Tower. The damage that had been done had been accomplished by the President's own delays in making the nomination, and by the information that had already been made public by those in the executive branch.

Now, 2½ months later, John Tower continues to twist in the wind as a result of information contained in a series of FBI reports, as a result of his documented acceptance of more than a million dollars from those he would not regulate, as a result of opposition of prominent Republican political activists.

If anyone is being partisan, it is those who suggest that the Democrats somehow chose this fight. We didn't choose Tower, and we didn't choose Tower's conflicts of interest. Senator Tower's own behavior has placed us in the position of having in good conscience to reject him. If the President's prestige suffers for this rejection, the blame, if any, should fall on Senator Tower for not withdrawing his name from consideration.

I am also certain the claimed defeat of the President has been exaggerated. I have no doubt that the President will swiftly be able to find another nominee with the appropriate experience to enable us to having the Nation's full confidence as a manager of our national defense.

We have many issues of importance before this body and this administration. We need to move forward with initiatives on arms control—conventional, chemical, and nuclear. We need to move forward with solving our defense procurement problems. We need to move forward with making choices among our current array of military systems, to keep the defense spending within the budget that has been allocated to it.

I do not believe John Tower can credibly do this, and I will vote against him.

I yield whatever time I have.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the Armed Services Committee. The Senate is about to vote on the Tower nomination. Whatever the outcome, I will be glad for an end to this. We continue to hear dire predictions of the end of bipartisanship, continuing acrimony in the Senate, and scars that will not heal for a long, long time.

Mr. President, I do not accept those predictions. I have heard them before, many times. Tomorrow, a week from tomorrow, a month from tomorrow, this Senate will be faced with new and difficult and controversial problems. So we will move on. History repeats itself. We heard the same things said at the time the Bork nomination was before the Senate. But the Senate moved on. So let us put it into focus, and cease the acrimony. Today's outcome need not end the spirit of bipartisanship.

Senators have a responsibility to be bigger than that. We all have a responsibility to be bigger than that. Senators have an obligation to see that such predictions do not come true. I have an obligation to do whatever I can to see that they do not come true. We all carry that responsibility. President Bush said in his address to the Congress, "The American people do not send us here to bicker." I believe the President was right. We all have to rise above the fallout from this nomination.

Let us not permit it to cloud our vision of the future and the knowledge of our responsibility to work together on behalf of the American people in the future.

In my view, there are no winners or losers in this battle, save the Constitution. The Constitution is the winner in this battle.

Article II, section 2, clause 2 of the Constitution says that the President "shall nominate, and by and with the advice and consent of the Senate," shall appoint.

I have heard it said that the rejection of this nomination is going to set a new precedent, that for the first time, the Senate will have rejected a nominee of a new President.

Mr. President, the constitutional clause which I have just quoted does not say that the President shall nominate, and, with the advice and consent of the Senate, except when there is a new President, shall appoint. It attaches no such condition on that responsibility that is placed upon the Senate. It does not excuse the Senate from bringing to bear its best judgment, and utilizing its courage and acting in what it views to be the best interest of the American people in the case of a newly elected President. It does not say that there is to be any relaxation of that responsibility on the part of the Senate when there is a new President.

A new President's nominee should be viewed with the same probing, careful, meticulous scrutiny, as should the nominee of a President who has served 2 years, 3 years, 4 years, or well into a second term.

So let the harsh charges and words recede and become a part of history. We have serious work to do, and we must move on. There is something to be learned from this experience. It is that we ought to be very reticent in questioning the motives of other Senators. We have heard charges, maledictions, predictions, contradictions, and countercharges. We have heard the charge of partisanship thrown around quite carelessly.

Mr. President, I respect every Member of this body. I respect every Member's exercise of his own judgment. I do not question his conscience in a matter of this kind. No one could have been more fair to the nominee than Senator NUNN. No one could have been more fair in dealing with this nomination than our majority leader has been.

I think that every member of the Armed Services Committee who voted as he did, every Member of this Senate who will vote as he or she will vote on this nominee, exercised and will exercise, an honest judgment. Who am I to say that it was a partisan judgment? The Constitution does not lay down any specific qualifications or standards for nominees. One may vote for or against a nominee on the basis of this or that or some other circumstance. He does not have to state his reasons. We all ought to show respect for each other's integrity.

We talk about being fair to the nominee; and we ought to be fair with the nominee. But we ought also to be fair with one another. We have to live together. We have to work together. Charity begins at home.

There are serious concerns about the nominee for the position, which have nothing to do with any desire to damage this new President, concerns that have nothing to do with partisan politics. The charge of partisanship could just as easily be made, pointing the finger in the other direction. But should not be done either. So the harsh words should stop. We must not rub salt into the wounds that have been opened. Let us act like men and women, adults, not like warring children in a sandlot football game.

I wish John Tower and his family well. I wish this new President well, and I hope for a speedy confirmation of the President's new nominee for Secretary of Defense. The minority leader will remain my respected

friend. We have been in many battles, and we have bound up many wounds.

So let us all turn our attention to approving the rest of the President's nominees and to doing the business of the Nation. Let us not look back. Scripture says that, "no man having put his hand to the plough, and looking back, is fit for the Kingdom of God."

We have a duty to look forward and to leave the dust of the battle here. Let it settle. Let bygones be bygones and attribute to each Member the benefit of the doubt. We have heard a lot said about giving this nominee the benefit of doubts. I say, let us give the benefit of the doubt to the Senators who are going to vote against the nominee. It took a great deal of courage for the chairman of the Armed Services Committee, to take the position he has taken.

I congratulate the ranking member, Mr. WARNER, likewise, for standing up for his beliefs, but let us not question each other's motives. That is all too easy to do. Each of us reacts indignantly when his own motives are questioned. Then let us not point the finger at others any longer. Let us prove that we are worthy of serving in this body.

The people who sent us here deserve nothing less.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. NUNN. Mr. President, what is the remaining time?

The PRESIDING OFFICER. Sixteen minutes and fifty-six seconds.

Mr. NUNN. Mr. President, the vote we are about to cast brings to an end a difficult and unpleasant chapter in the history of the Senate's advice and consent process.

When the tally is announced there will be no winners, other than our system of Government and the United States Constitution. There will be no celebrations, no backslapping, no cries of victory. If the Senate rejects this nomination there will be deep personal disappointment for the nominee and his family. For those who have supported him with such loyalty and conviction, there will be profound sorrow. And for those of us who reluctantly came to oppose this nomination, there will be the lasting knowledge that we came to a different conclusion from that reached by colleagues for whom we have such respect and high regard.

But if we in the Senate are to heal these wounds and rededicate ourselves to the accomplishment of those tasks for which the people dispatched us to this great institution, we must begin by understanding that we did our duty under the Constitution and we did it to the best of our abilities.

When the tally is announced, I do not believe the result will accurately reflect the struggle so many Members underwent in arriving at their vote. This decision has been very difficult for Senators on both sides of the aisle. There were Republicans who agonized over their vote, and came down "yes." There were Democrats who agonized over their vote, and came down "no."

I would hope that those across this land who watched these proceedings or followed them would not be swayed by simplistic characterizations of the outcome. Rather, I would hope that they would believe their own eyes and their own ears. Anyone who watched as Senator after Senator announced his or her position on this vote and listened to the care with which those speeches were delivered knows that these were deeply personal convictions.

Nor, despite reports and rhetoric to the contrary, is this a referendum on the new Bush administration. This was a unique case, a unique situation. I do not believe that we will have another nomination with this number of allegations and this degree of controversy in my lifetime.

With the passage of time, there will be an opportunity for calm reflection on the lessons of this experience. But that must await a time when the sound and fury of this long and wrenching struggle have subsided.

What matters now is that with the courtesy, comity, and cooperation that have for 200 years been the hallmarks of the U.S. Senate, we return after this vote to address the serious challenges facing our Nation at home and abroad.

The PRESIDING OFFICER. All remaining time is now equally divided between the two leaders.

Mr. NUNN. I thank the Chair.

I stand ready and indeed look forward to working with President Bush and my Republican colleagues and my Democratic colleagues on these issues.

Mr. President, John Tower is a patriot. He has made important contributions to building a strong defense and a strong America. He will, I am sure, make many, many more.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

If time is not yielded it will be charged equally between the two leaders.

Mr. NUNN. Mr. President, I have certain information to put in the RECORD relating to a Wall Street Journal editorial. I ask unanimous consent this matter be printed in the RECORD.

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

USE OF MILITARY AIRCRAFT AND FBI REPORT, MARCH 9, 1989

The Wall Street Journal has an editorial today which, among other things, suggests an improper action on the part of my staff in terms of flying on military aircraft.

Despite the fact that an earlier incorrect article by Evans and Novak related to the use of Armed Services Committee staff of a military aircraft had already been corrected on March 6th by Senator Warner, Senator Exon and Senator Simpson, the Wall Street Journal repeated the earlier error.

I ask unanimous consent that a March 6th colloquy between Senator Warner, Senator Exon, and Senator Simpson on this subject be inserted in the record following my remarks.

I also ask unanimous consent that a statement inserted by Senator Warner on March 6th explaining this matter be inserted in the record following my remarks.

I also ask unanimous consent that a letter dated March 8, 1989 by Acting Air Force Secretary James McGovern to the Washington Post correcting the Evans and Novak article be inserted in the record. I would insert the letter at this point.

DEPARTMENT OF THE AIR FORCE,
Washington, DC, March 8, 1989.

MS. MEG GREENFIELD,
Washington Post,
Editorial Page Editor,
Washington, DC.

DEAR MS. GREENFIELD: I frequently read and have great respect for the Evans and Novak column. However, their March 6th article, "Sam Nunn's Agenda," left an erroneous impression of how Air Force aircraft are used to support the Congress. I would like to set the record straight regarding Mr. Punaro's use of an Air Force C-21 on January 7, 1989.

The article referred to Mr. Punaro as "commandeering" the aircraft. The implication in using this term is that use of an Air Force aircraft was improper. This is simply not the case. The fact of the matter is both the Administration and members of the Senate Armed Services Committee were attempting to schedule confirmation hearings on Senator Tower in a timely manner. Before such hearings could be scheduled however, it was essential that the Chairman and Ranking Minority Member of the Senate Armed Services Committee review the FBI file.

It was, therefore, in the best interest of the Administration and the Congress that the FBI report be delivered promptly to Senators Nunn and Warner in order to facilitate an expeditious review of the materials. This would then insure that a confirmation hearing could take place as early as possible.

On a matter as important and time sensitive as this review of the FBI report, use of a government aircraft was prudent and practical. All actions taken by Mr. Punaro were in accordance with existing regulation and policy.

Sincerely,

JAMES F. MCGOVERN,
Acting Secretary of the Air Force.

Mr. WARNER. Mr. President, before my distinguished colleague departs, I have not as yet had the opportunity to read the Evans-Novak column here in the Post of today. I did take it upon myself at my own initiative to see Roland Evans and to tell him precisely what occurred, that is, to the extent I had knowledge on the subject, and I will not recount basically what I told Mr. Evans, and then I will later have the opportunity to read it and see if

this article in any way reflects the information that I possessed.

Senator NUNN and I were together at this charity event. He was scheduled to leave the event and go on other prescheduled trips, thereby preventing his return to Washington. I was, however, and did return to Washington Monday after the weekend. Now, prior thereto Senator NUNN and I had both expressed to the White House our availability at the earliest possible time to look over the FBI material. We were told that as soon as it was available we would be notified.

Insofar as I know, the first knowledge of its availability came to the chairman while he was with me at this particular event. He pulled me aside out there and said that he had made arrangements for the FBI report to come out. As far as I know, the arrangements were made as is custom by the chief of the staff of the majority. I did not get involved in the details.

The report was brought out, Senator NUNN and I departed from the activities that we were scheduled to be involved in, and spent on Saturday, my rough estimate now is around 2 to 2½ hours looking at it Saturday evening—not late evening. I would somewhere in the area of 5:30 to 8:30 to 9.

We then recognized that we had to do a great deal of additional work. We got up around 7:15 the next morning, regrouped with a member of the White House counsel staff, a military aide, Mr. Punaro, and my chief of staff, Mr. Tucker. In my recollection we must have spent another 2½ to 3½ hours from say 7:30 on Sunday morning working on it.

There were two advantages to having the report being brought to us. A, it enabled us to look over that report and then advise White House counsel where we felt there were areas that required additional research. They took our request and initiated immediately the additional research under the aegis of the FBI.

Mr. NUNN then went on some scheduled trips elsewhere. I returned to Washington, continued to work with both majority and minority staff, then worked by telephone with Mr. NUNN throughout that week until he returned, and shortly after his return we resumed working with the FBI here in the Senate Armed Services Committee spaces.

I have not had an opportunity to read this through. I will, and I may have further comments later.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague from Virginia for the explanation that has just been offered. I would simply caution my good friend and colleague from Wyoming. If you do not believe everything that you read in the FBI report, do not necessarily believe that report is any more authoritative on some matters than the Evans-Novak story in the paper today.

I believe that the Senator from Virginia has highlighted what I was going to say in rebuttal to that charge.

I just say I think it is sad indeed that we feel it necessary to come on to the floor of the U.S. Senate and directly or indirectly impugn the motive of our colleagues. We all know this has been a very, very difficult task for all of us—the majority and the minority.

I just want to make it very clear that the facts of the matter are, money was saved from taxpayers' expense in the way this was handled by the chairman of the committee which is customary because on that airplane that went out it was not just SAM NUNN's chief of staff for the committee, but there was the majority staff director, the minority staff director, and the White House lawyer that my friend from Virginia has already referred to who had to go along because it should be understood by now that the White House report is never given to a courier other than someone who has authority to handle the report. That is why the White House lawyer went along. In addition, there was a military escort that has been properly outlined by my colleague from Virginia.

So I think we can have our differences of opinion but how the report was carried out there and whether or not it was a good idea to take a military aircraft is not a valid point of concern. In fact, from that perspective, it has been brought out that was the cheapest way for this to be handled.

Also, as Senator WARNER has very well outlined, time was of the essence. This was on January 7. I remember it very well because I talked on the telephone with Senator NUNN that day in Phoenix or wherever he was. I do not remember where he was. He told me that Senator WARNER was there. I had received some information that I thought was critically important that I relate to the chairman. I did so over the telephone. He told me that the report was on its way out at that time, and that they were doing this so we could speed up the process because the record should show we were not scheduled to come back into session until January 20. I know Senator NUNN, and I suspect also that Senator WARNER felt that the sooner they had the opportunity as the leaders of the committee to address this subject and study the report, get the process going, we would be better prepared when we finally did get back to call the full committee into session to discuss the nomination which we did.

Just one other point. I heard early about the charge of an Eastern-bloc woman and his relationship. I did not believe it at the time. I also heard some time before it broke in the press the episode about the drunken ballerina—supposedly—Soviet, and on top of the piano dancing. I did not believe that either. As it turned out, I think that the FBI report among other things closed an awful lot of loopholes with regard to allegations that were simply not accurate.

If I were the opposition to my position on the Tower nomination, I, too, would use these reports which are unfair, unfair to John Tower, unfair to the process. I too would use them in an attempt to imply that everything that we know about John Tower that possibly would not be shed in the best light follows the irresponsibility of those who made those accusations.

As I have said on many occasions, 90 percent of what I have heard and seen and studied on this matter is sheer garbage. Ten percent at least has given me grave pause for concern. And therefore I think it not accurate to assume that because there were unfortunate stories released to the press. This Senator can say that I have never released one shred of evidence to the press. And I have talked to lots of them. It is unfortunate that these come out. I feel sorry about that. But nevertheless the process has to go forward, and there are other things that cause me enough pause for concern that I am opposed to the nomination.

I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Let me share with my colleague from Nebraska, who also came here when I did, that I enjoyed it very much although I know he harbors some deep feelings about lawyers that are very deep in his mind. I checked with him on that many, many times. And perhaps I misspoke. I read the report. Yet, just recently I also was the subject of a column of Evans and Novak where they said, "If Tower has friends like Simpson, who needs enemies?" At least I put in a letter to the editor saying they were about two tacos short of a combination plate. And I did hear from them. They are delightful people, selfish sometimes, you know; but it is not appropriate here, and I agree. I have done that.

So I did not know anything more than what I read. I appreciate, and I listened to what Senator WARNER has said. I would be very pleased to make an apology to the staff person that was mentioned in the article, and would ask for a report of it so that I might read that to see what the reasons for doing that were. I certainly owe the gentleman an apology. But I still leave in my comments about the generic aspects of staff participation, I will leave that in the RECORD, because sometimes we get overwhelmed by staff, and sometimes they take us to places we do not choose to go, and yet we have to take responsibility for that.

But the Senator from Nebraska is correct. I should at least ask that same thing that I am asking of them, and so I certainly apologize to that person. I would very much like to have a report of what did occur and why that was necessary. I, too, am sorry about what is happening; but even though the Senator from Nebraska and I can both be sorry, it is John Tower who suffers. That is the problem here.

And then to hear a startling statement, which I believe, because I, too, have matched the percentages, is that 90 percent of the material about John Tower is garbage and the other 10 percent might be true, Lord then where are we? How did we get here? Impossible, absolutely impossible.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank my friend and colleague from Wyoming, and this is just parliamentary garbage or talk. I hold him in very high esteem. An apology is not necessary at all. I think that the remarks he made just had to be corrected and put into proper perspective, and that is what I attempted to do.

I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that immediately following my remarks relative to the Washington Post column of today, I might have the opportunity to provide some additional material in the form of some memoranda made up by the staff at the time this issue first arose some month or 6 weeks ago. I am not sure where it has been all this time.

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

RESPONSE TO A QUESTION FROM MR. ROLAND EVANS

In response to a question in mid-January, 1989, from Mr. R. Evans about the use of a military aircraft to bring the FBI material to Senators Nunn and Warner, the following reply was provided then:

On the evening of January 6, 1989, the White House transition and the Tower transition staff notified the Committee that the FBI materials were now available for review by Senators Nunn and Warner. Both the White House and Tower transition staffs urged that the Senators review the material immediately and wanted to fly the material to where the Senators were together in Phoenix.

The Senators would not be back in Washington together for over a week due to the Senate recess. The transition personnel urged that such a delay in reviewing the material be avoided. At approximately 10:00 p.m. on the evening of the 6th, a decision was made to get the materials to Phoenix.

The transition counsel required that the FBI material be brought to the Senators by transition personnel as the material could not be turned over to Committee custody.

One of the transition counsels, Ms. Sherrie Marshall, brought the material to Phoenix on January 7th. Both the Majority and Minority Staff Directors, Mr. Arnold Punaro and Mr. Pat Tucker, were also required by the Committee Leadership to be present. In addition, one person from OSD Legislative Affairs also went on the trip at the request of the Department of Defense.

Based on the Senator's review, there were a number of follow-ups for both the FBI as well as the Committee staff. The follow-up work was begun immediately upon the staff's return on January 8th.

After checking on commercial arrangements the staff made the decision to use military air to meet the schedule constraints and due to the number of travellers.

The PRESIDING OFFICER. Who yields to the Senator from Virginia?

Mr. WARNER. Mr. President, I will just yield to myself I presume from the time allocated.

The PRESIDING OFFICER. Does the Republican leader yield time?

Mr. WARNER. I will act as the Republican leader for the moment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there is a quotation that has meant a great deal to me throughout my life. Like all of us I have won a few and I have lost a few, but Grantland Rice once said, "When the Great Scorer comes to write against your name, he marks not that you won or you lost, but how you played the game."

From this moment forward it would be my fervent hope that we let the historians record against each of our names our respective scores, whatever they may be, and that we return to our concilliatory way of doing the Nation's business.

I will accept, and accept with humble pride, the best efforts that I could put forward to defend what I believe were the prerogatives under the Constitution of our President and the rights of a nominee before this body.

I did my best to bring forward truth and fairness and objectivity, but I shall accept my score whatever it may be. If the Senate erred in its procedures, then I accept part of the responsibility.

But now, Mr. President, I am privileged to yield to the Republican leader, and it has been a special privilege for me to stand beside him throughout this proceeding. I remember full well having made a speech on his behalf when the Republicans were seeking their leader, and I repeat that now because I feel the sentiments that I expressed, they are appropriate for this moment.

He fought this battle with the same intrepid courage, the same unselfishness as he displayed in leading his troops in World War II. I yield the floor to the Republican leader, Mr. DOLE.

I thank the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank my colleague from Virginia and I thank all of my colleagues on both sides of the aisle.

Today I am standing with my President, and I am standing proudly with John Tower. He is still the right man for the job.

Let me first save all the analysts and pundits a lot of time. The President of the United States did not lose. The U.S. Senate did. And, make no mistake about it, John Tower did not lose either.

Maybe we should have demonstrated the kind of courage that John Tower and his family showed during this cruel ordeal.

We have witnessed a confirmation process gone reckless. We have seen the Senate, the so-called world's most deliberative body, become a pipeline for gossip and smear, a peddler of rumors and leaks, a partisan hotbed of character assassination.

What have we come to here? What happened to decency? What happened to justice and fair play?

We are Senators here, not snoops. And I think the U.S. Senate is a few moments away from setting a dangerous precedent. a continuing body, what we do today will directly affect tomorrow, and I believe what we are about to do is bad news for the U.S. Senate.

An historic precedent included in our constitutional debates and reaffirmed in the Federalist Papers is that the President of the United States has an almost unfettered right to appoint the members of his own administration, and the last time I checked George Bush was President of the United States.

He won the election. The American people gave him a mandate, and that mandate includes the right to pick the men and women who will help follow through on his campaign commitments.

Oh, yes, the Senate has a role, a critical role. It has the opportunity to advise and consent to Presidential nominations, to monitor these important decisions. Although under the Articles of Confederation the Congress made all nominations, when the Constitution established a separate executive branch, it divided responsibility for nominations between the President and the Senate.

And article II, section 2, clause 2 contains the Presidential power to nominate, "by and with the advice and consent of the Senate * * *" officers of the United States.

I think you can fairly state that writers of the Constitution envisioned the role of the two powers involved to be one of Presidential power, which was checked almost as an afterthought by reference to the Senate, very late in the proceedings.

For the Senate to involve itself in this Presidential prerogative, our Founding Fathers said, would make it "too indulgent judges of conduct."

Therefore, the Senate will look only to the "appearance of merit" and require "proofs of the want of it" to withhold consent.

I do not suggest for a moment that the U.S. Senate is a rubber stamp for any President or any nominee, whether that nominee served in this body or not, or for any future President.

I do suggest that the Constitution and 200 years of precedent dictate the presumption that the President should have his chosen Cabinet.

I am reminded that earlier this morning one of my colleagues was saying, "Well, Senator DOLE voted against Paul Warnke and voted against Griffin Bell." And I did and I said I apologized to Griffin Bell, for that. I made a mistake. I listened to people who did not have facts.

And, with reference to the vote against Paul Warnke to be our arms negotiator, I was in good company with Senator NUNN, Senator Jackson, and others, because that vote was on SALT II, not on Mr. Warnke. So there was a host of Democrats and a number of Republicans, a total of 40, who voted against that nomination.

I happen to believe the case against John Tower is very thin. I think it is unfortunate, but if John Tower and I have anything in common, it is the ability to count votes. The fact is that a number of Senators, Senators whom I respect, on both sides of the aisle, have expressed concerns about drinking which I believe are genuine, even though I do not share them.

Well, John Tower walked the extra mile, and then some. But what did it get him? It looks like, from the start, he has been walking the gangplank.

On February 26, John made a dramatic pledge not to touch any alcoholic beverage while he is Secretary of Defense. The distinguished Senator from Alabama, Senator HEFLIN, had it right. President Bush, Tower's Pentagon colleagues, the press, the Congress and the American people would be watching John Tower every waking moment. I do not think John needed to do this but he offered it as a reassurance in the spirit of good will. This pledge has some impact, but not enough. But it was important to Senator HEFLIN. It was important to Senator BENTSEN.

Then I proposed John Tower be given his day in court. We have had all these charges that he had not proven his case beyond a reasonable doubt. Since when did proving the negative become the standard for nominee? Reasonable doubt of what? Of some leak or some innuendo? What does he have to prove?

So I said, "Bring him into this Senate; bring him into this well. Let him answer his critics. Let him ask some Senators where the leaks came from, and let him make his statement."

That offer was rejected.

And when I learned there were two undecided or undeclared, I guess, Democrats, it occurred to me there was just one other opportunity, and that was to come to the floor and suggest, as I did last night, that we could have a second shot at John Tower within 6 months.

And John agreed to walk that extra mile yet again. He was prepared to sign a letter of resignation effective October 1 that would have the U.S. Senate a review of his pledge, his performance, and, yes, even his defense policies.

But it became apparent that this pledge, too, was going to have no impact. This has been a pitched partisan battle and has been for weeks.

Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we spent precious little time on SDI, strategic modernization, the 600-ship Navy, troop strength, alliance burden-sharing, or arms control. Rather, votes have been decided by tabloid versions of John Tower's personal life. Faceless people, known only as he/she, or T-13 have woven fanciful tales of wine, women, and song. A doctor who is not a doctor but who uses many names has hurled a nonexistent Russian ballerina onto the front pages. Nonexistent. A sergeant with a faulty memory conjured up a racy encounter with a female Air Force crew chief. And a lone flight attendant's tale of superhuman vodka and champagne consumption could not stand up to polygraph.

They all made the evening news; but we never saw the retractions. One can only guess who dug up this motley crew of witnesses, why, and how their bizarre tales landed on the front pages.

But two things are certain: First, a series of leaks savaged the reputation, family and, finally, the nomination of one Senator John G. Tower of Texas.

Second, John G. Tower broke no law, rule, or regulation with regard to conflict of interest. Speaker after speaker has reaffirmed this point, although some have left the implication that he may have even illegally passed classified information on to defense contractors.

John Tower left the Senate and planned to go into defense consulting. He was asked by the Secretary of State to go to Geneva to be an arms negotiator. So he put his business plans aside for more public service after 24 years in the Senate. I think he provided a lot of good expertise and made a big difference in the arms control talks.

Then he did provide insight and judgment to companies with an interest in the direction of arms control.

And we have had the State Department regulation quoted here many times but never all of it, just the misleading part. The State Department regulation governing such activity explicitly states that former employees are not expected to purge their minds of experience, insight and understanding. It is not a vacuum up there. They must take care not to divulge any confidential information. I think John Tower followed that in the spirit and letter of the law.

So I am obviously disappointed. I agree with others who have spoken. We have other work to do and we will get it done. This is not going to leave a permanent scar.

And I agree with the chairman who just said there should not be any cheering or applauding after this vote. After what we have done to this good man, maybe we ought to hang our heads.

It seems to me that if the drinking thing were answered, then another charge was raised. And if that were answered, then another charge was raised.

I know we have had some spirited debate. I want to thank Members of both sides, staff on both sides, and all the people that have been here. I want to thank John Tower. I talked to him a couple of times today. He knows this is politics, so he can accept it. He knows that he is being shot down because he is a Republican and there are more Democrats than Republicans. That is not much solace, but I guess, having been in politics for 24 years, he can understand that.

We are not fighting over some fine point. The fact is that some never wanted John Tower to be Secretary of Defense and they are going to get their wish. I think this is unfortunate.

And so I just say to my colleagues, as I said yesterday, I think we are making a mistake. We did our best.

I wish to thank particularly Senators HEFLIN, DODD, and BENTSEN, because I know the pressure was terrific daily, minute by minute, on the other side to line up everybody against John Tower. I know it took a lot of courage.

So John Tower will be gone. We will be here. Whatever John Tower does, I wish him the best. I am certain we all do, in one way or another.

America has lost a good public servant. The President won because he stood by his man.

Finally, Mr. President, win or lose, effective floor action in a protracted debate such as the one we have just had on John Tower, depends on long hours of high-quality work by all our staffs. I would just like to take a moment to thank some of those people who have worked so hard for Senator Tower's confirmation.

First, we owe a special thanks to the minority staff director of the Armed

Services Committee, Mr. Pat Tucker. Pat has been on this issue from day one. He has distinguished himself as thoughtful, diligent and very cooperative. It has been a pleasure to work with him.

I would also like to thank Les Brownlee, Ann Sauer, Brian Dailey, Judy Freedman, and Ken Johnson, all of the Armed Services Committee staff, for pitching in to help us all.

Then, as the nomination reached the Senate floor, more good staffers stood ready to help. I would like to thank J.D. Crouch, Mike Converse, Peter Flory, Jim Morhard, and Rob Soofer for all their help.

I want to emphasize that all these people went out of their way to help all of us in addition to their normal duties supporting their own Senators.

Finally, I would like to thank Heather Brown and David Wilson, two young people from my staff who did so much of the support work for us during this process.

The VICE PRESIDENT. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we have come to the end of the long and difficult debate over the nomination of John Tower to be Secretary of Defense. Supporters and opponents of the nomination have spent 6 days on the Senate floor debating this nomination, constitutional principle, and Presidential prerogative.

Last week I quoted from a book by Prof. Calvin MacKenzie, "The Politics of Presidential Appointments," concerning the standards applied to nominations. I repeat some of those words today. I believe they provide a useful perspective on the debate of the past 6 days. Professor MacKenzie wrote:

> The most elementary of the purposes for which the confirmation process is used is that of examining and passing judgment on the character and competence of the President's nominees. Evaluating nominees is not, however, a simple matter. For one thing, most of the individuals nominated by the President are intelligent and accomplished members of the political, economic, or academic communities. In recent times, at least, most nominees would satisfy even the most stringent minimum qualifications for public service. And yet the question that must be asked by the Senate is not whether these are "good" men or "good" women, but whether a particular individual possesses the necessary and appropriate qualifications to serve in a particular position. * * *
>
> The task of nominee evaluation is further complicated by the fact that there is not now, nor has there ever been, any universally accepted qualifying standard for public service, any consistent set of criteria for judging fitness.
>
> The difficulty occurs in those hazy areas where the standards are not set in the concrete of tradition or law. When judgment must be passed on an individual's past performance, his personal and financial integrity, the level of his competence, and his political acumen, the Senators have to make decisions for which there are few exact precedents and even fewer useful guidelines. * * *
>
> In spite of persistent inconsistency, however, the task of evaluating nominees is marked by several recurring themes. Most of the expressed concerns * * * fall into three broad areas: conflict of interest, character and integrity, and professional competence or experience.

Mr. President, conflict of interest, character and integrity, professional competence and experience.

We have heard a lot in this debate, right up to and including today, that the President should have his way. I was not in the Senate in 1977 when a new Democratic President sent nominations to the Senate, so this week I went back and read the debates that took place in this very Senate 12 years ago this month.

Well, you talk about night and day. You talk about making both sides of the argument. The position then advanced consistently by Republican Senators can be summarized in the words of one who said:

> No, sir, Mr. President. I cannot accept the thesis that the President is entitled to have whomever he wishes for positions which require the advice and consent of the United States Senate. If we are not supposed to exercise our judgment about the best interests of our country then we need to take that provision out of the Constitution.

That was the almost universally expressed view of the limits of Presidential prerogative and the role of the Senate in the confirmation processes by Republican Senators when the President and the nominee were Democrats.

In the case of Senator Tower, competence and experience are not at issue. He understands the Department of Defense and the issues which the Secretary of Defense must address. He is experienced and knowledgeable.

With regard to the other two concerns, however, serious problems exist. Senator Tower's financial relationships with the number of defense contractors immediately after his service as chief arms control negotiator raises serious and troubling questions about his ability to distinguish private and public interests. It is simply not true, as some have argued, that the Senate has frequently condoned such behavior. There is in fact no similar case in which a Government official has participated at the highest levels of Government in key decisions which could affect the financial interests of numerous defense-related companies, then has moved immediately to advise some of these same companies on the potential impact of those Government policies on the programs of those companies, receiving very high fees for his advice, all at a time when he was widely and publicly believed to be a likely nominee for Secretary of Defense. And that public expectation has now been realized. The same individual is not in fact nominated to move directly back into Government as Secretary of Defense, with vast power over the same companies.

The Senate has not condoned such behavior frequently. Indeed, it has never condoned such behavior. Nor should it.

On the question of character, much has been spoken on the floor of the Senate. I will not attempt now to summarize or characterize that debate. I will say that for me, as one individual Senator, it is sufficient to say that concern about Senator Tower's past excessive drinking, which even he now acknowledges, and the absence of convincing evidence that such excesses no longer continue, have proven an insurmountable obstacle to confirmation.

This has not been an enjoyable experience for anyone of us. The Chairman and ranking member of the Armed Services Committee, Senator NUNN and Senator WARNER, have labored for months on this nomination, in a conscientious and fair-minded effort. I commend them for the manner in which they have conducted themselves. There is no more fair, no more able, no more respected Member of the U.S. Senate than SAM NUNN of Georgia.

I also commend the Republican leader. He has argued his case vigorously and with conviction. He has done well by Senator Tower.

The debate on this nomination has been complicated by the fact that some relevant information cannot be discussed in an open session of the Senate: The FBI files on its background investigation, and other material in the records of the Armed Services Committee, all of it bearing on the suitability of Senator Tower to be Secretary of Defense.

The President's decision not to permit the background material to be made public has constrained the open debate. But it did not prevent Senator Tower from receiving full and fair consideration in the Senate.

The restrictions on public discussion of some information have been frustrating to everyone concerned. Supporters and opponents of the nomination would prefer to argue their case openly and fully before the public, just as the press and public would like to know all of the details. These frustrations are understandable. But they should not be allowed to obscure the fact that the background material has been examined thoroughly and evaluated by those who have the constitutional responsibility to provide their advice and consent on the nomination: the Members of the Senate.

As many Senators have pointed out, reasonable persons can and do disagree on the meaning of some of this information. Fairness to the nominee and the President required that these issues be fully explored prior to a final

vote. This has occurred, as the vigor of the lengthy debate attests.

The nomination has been considered carefully. Full opportunity has been afforded those who support or oppose the nomination to make their arguments. The standards applied in this matter are the same standards applied to the other nominees confirmed by the Senate in this and in previous years. And that is simply, is the nominee suited for the job to which he has been nominated and would he be able to serve effectively?

Senator Tower has had ample opportunity to respond to the allegations against him. The FBI advised him of the allegations in its files and his responses to those allegations were incorporated into the record available to all Senators. Senator Tower was given the opportunity to rebut the testimony of outside witnesses who testified before the Armed Services Committee and to call outside witnesses in his own behalf. He declined each offer.

Senator Tower met personally with many Senators. He made his case on national television and in public appearances. The President made his case in public and in private. His supporters in the Senate waged a vigorous, spirited campaign on his behalf. He received a full and fair hearing.

The time has now come for the Senate to exercise its role under the Constitution to vote on the nomination.

No universally accepted criteria for judging fitness for public office exist. No standards were established by law or are contained within the Constitution to guide Senators. Ultimately, the decision is subjective, an individual Senator's judgment of the qualifications and suitability of the nominee. Difficult though that may be for us, it is clearly what the framers of the Constitution intended.

I emphasize my strongly held belief that this vote is not and should not be interpreted as a vote to harm the President. That conclusion will be reached by some, and, indeed, it already has.

I cannot control what others may write or say, but I do know what is in my mind and in my heart. This is a vote on a specific person for a particular, uniquely important position. I hope and intend that this will not injure the relationship between this President and this Congress in any permanent, or even long-lasting, way.

Similarly, I hope there will be no long-term adverse effects within the Senate. Hard words have been spoken. Feelings have been hurt. I know it is difficult now, in the heat and anger of the moment, to look beyond this controversy to the many other challenges facing our Nation, to which we can respond effectively only by working together. But that is precisely what I ask of my colleagues.

We face this unpleasant task because the Constitution requires us to do so. We must work together in the future because the national interest compels us to do so.

I conclude by asking only one thing of each Senator. Cast your vote on the basis of your view of the proper role of the Senate in the confirmation process, your evaluation of all of the relevant information about the nominee, and, finally, on the dictates of your conscience.

The VICE PRESIDENT. The minority leader does have 3 minutes remaining.

Mr. DOLE. Mr. President, I just say I want to thank the majority leader for his statement. I share that last request with him.

Mr. BIDEN. Mr. President, for me the central issue in whether to confirm John Tower to be Secretary of Defense are not matters pertaining to his personal character. For me the real question is whether John Tower is the right person for the job of Secretary of Defense at this time in our history. Notwithstanding President Bush's protestations about Senator Tower's qualification, this is the position I've been taking for 3 weeks.

The Congress, the President and especially the next Secretary of Defense will face difficult choices with respect to our defense budget. We will look to the next Secretary for guidance on this very difficult terrain. How can we protect the national security goals of our Nation in an era of diminishing Federal resources?

In the words of a respected columnist in the New York Times:

> The time has come when painful long-delayed choices will have to be made. There will be angry fights among the services about where inevitable cuts in spending plans must come. Some reasonable consensus will have to be reached with Congress or there will be no chance of rationalizing the mindless jumble at the Pentagon.

There are three threshold qualities necessary in the next Secretary of Defense:

First, to understand defense strategy.

Second, to have the management skills, and the will to undertake these cuts or in the columnist's words "to rationalize this mindless jumble" consistent with the goals of our defense strategy.

Third, to have a record of commitment to strengthening the integrity of the procurement process.

While I have little doubt about Senator Tower's ability on the first matter—his understanding of defense strategy. It is the latter two which give me pause.

John Tower has had a long and distinguished career as a public servant, most notably as chairman of the Armed Services. Senator Tower was chairman during the period of the greatest peacetime military buildup in our history. As Chairman of the committee he oversaw the defense authorization process at a time when defense spending increased by nearly 40 percent—after inflation.

As the current chairman of the Armed Services Committee has stated with greater eloquence and expertise than I can muster this helter skelter increase in our defense budget did not provide a commensurate increase in our national security. It was undertaken without coherent strategy or goals. In short, we often simply responded to the then Secretary of Defense Weinberger's thesis: "We want more of everything."

To my knowledge Senator Tower supported every major weapons system requested during the first Reagan administration. He certainly led no effort to stop or trim a single one of these initiatives.

During that period serious allegations were made about corruption and procurement fraud in the Department of Defense. As chairman, John Tower not only failed to lead efforts to impose fiscal restraints and rationality on the process but he resisted efforts to make the procurement process more honest. For example, in 1982 he voted against legislation giving the Pentagon's inspector general a strong and more independent role to carry out investigations of DOD activities.

In short Senator Tower has played a prominent role in creating the "mindless jumble in the Pentagon" and I have serious doubts that he is the right man to "rationalize" that process. I simply do not believe that he is the right man to reassess the utility of such programs as the MX missile, the 15-carrier Navy, and the B-1 bomber programs which he championed here in the Senate.

I do not question any Senator's motives regarding his vote on this nomination. We all have the good of the Nation at heart. And as envisioned by our Founding Fathers we all apply slightly different standards in determining how we are going to exercise our advice and consent. And what weight to give various elements of the nominee's background in that process.

Different posts require not only different expertise but differing personality traits and strengths. Judicial temperament is critical to a Supreme Court nominee and not as significant for the Director of the Drug Enforcement Administration. Sobriety is arguably more important as a Secretary of Defense than it is for a Secretary of Commerce although always admirable. One's moral conduct is going to be defined differently by each Senator—but arguably there is a point at which almost everyone might agree that a nominee's conduct is outside his duties and though noncriminal may cross the

threshold in acceptability in holding high public office.

The point is there is no clearly definable standard and the Constitution in defining the advise-and-consent function left the definition of that standard to each individual Senator. The reason they did so is that the office being sought is just that: being sought. It is not a vote of the nominee anymore than it is the right of any Senator to hold his office. Indeed, I would argue the burden is upon the nominee to establish his qualification for office and not vis versa.

This is not a criminal trial where the presumption of innocence is with the defendant and the burden of proof is with those who allege misconduct. Nor are we in an impeachment proceeding where I assume a similar standard should apply.

I also agree with those who argue that the President is entitled to a certain amount of deference in the selection of his Cabinet and that that should be a factor in the way in which we exercise our advise-and-consent function. So while the President to my mind is not entitled to great deference when he nominates a Supreme Court Justice or any judge who will sit for life, he is entitled, within limits, to have a Cabinet of his choice. And indeed in over 200 years only eight Cabinet nominees have been rejected.

But there are limits. Despite that due deference many of us have at times voted against nominees for substantive reasons because their policy positions on matters which came before them were simply too extreme for the post the nominee sought.

I voted for substantive reasons against five Cabinet or sub-Cabinet level nominees: Caspar Weinberger to Secretary of HEW in 1973; Elliot Richardson to be Attorney General in the same year; Carla Hills to be Secretary of HUD in 1975; Wade McCree to be Solicitor General in 1977; and James Watt to Secretary of the Interior in 1981.

Just as I voted against Ms. Hills for HUD because I did not believe she was committed to Federal housing programs and James Watt because he was not committed to conservation and protection of the environment—the functions of the Departments they were selected to head—I can vote against Senator Tower because I do not believe he will undertake the necessary reforms that are required of the next Secretary of Defense.

John Tower obviously agrees with that principle because he opposed Paul Nitze to be Secretary of the Navy in 1963 and Paul Warnke in 1977 as head of the Arms Control and Disarmament Agency because of their views on arms control.

But to speak only to the legality or constitutionality of what is going to happen in this Chamber today misses the point. Taken to its extreme the process runs the risk of doing great harm not only to the reputation of an individual nominee but to the political process which ultimately must rest upon the comity between the branches and the confidence of the American people that we have been fair and reasonable in the exercising of our prerogatives under the Constitution.

Although reasonable Senators can disagree, I believe that in the case of John Tower we have come perilously close to doing harm on both counts—to the comity between the branches and notions of fairness.

I do not believe that we have violated notions of comity by voting as some us will for substantive reasons against President Bush's choice. But I do believe, as Woodrow Wilson used to say, we have an obligation to avoid warfare between the branches in the exercise of prerogatives under a system of separate branches. This struggle has become so rancorous that it undermines confidence by Americans in the notion that the system can work. At times voices on both sides of the aisle and in both branches of Government have been too shrill and the stakes raised to the point that many Americans must think that this angry debate is all that we're doing here in Washington.

I have not based my position on the Tower nomination on the personal allegations against Senator Tower. My position is based entirely on the substantive matters I have described above.

Indeed I have not read the FBI report. I have never publicly taken a position on a nominee based entirely on an FBI report. I and the professional investigative staff of the Senate Judiciary Committee spend literally thousands of hours every year reviewing FBI reports on hundreds of nominees, probably more than any other committee of the Senate.

FBI background reports are investigative reports. When the FBI compiles a background report on an individual it assigns agents to gather any and all information on the individual. The quality of the information ranges from uncorrobated musings of people of unknown credibility to carefully documented evidence of serious criminal wrongdoing.

The FBI is not asked to, and does not, evaluate the credibility or seriousness of the information in the file. The Bureau assumes the White House or the congressional committee will undertake that process.

So to the Judiciary Committee these reports provide leads for further investigation and we use them for that purpose in the committee. Based on the FBI report we conduct followup investigations. We either send the FBI back to the witnesses making the allegations, to confront the nominee or to determine the credibility of the witness making the allegation. At times we place witnesses under oath or we conduct public on-the-record hearings.

Since I did not have to reach that issue in the case of Senator Tower I did not seek access to the FBI report.

Finally, I might say that there has been some discussion about public release of the FBI file on Senator Tower. Again, the FBI file is an investigative file and should not be publicly released. It should not be released first, because the information that is given the FBI is given in confidence and we would jeopardize that process if the investigative file were made public. Second and even more important, the file should not be released because the information in the file has not been subjected to elementary notions of due process—cross examination of witnesses under oath, right to confront the accuser and so forth.

Finally, why would anyone seek a Federal appointive position if any person he or she might have alienated could make an unsubstantiated allegation to the FBI and the nominee could find that allegation spread across the public record with the apparent imprimatur of the FBI?

If Members insist on plumbing these personal allegations further and feel that further public release of information is necessary the right approach would be the one suggested by the chairman of the Armed Services Committee to conduct a full blown committee investigation with witnesses under oath. That would be an arduous time consuming process for the Senate and Senator Tower.

In my case I do not think further public debate is necessary on these personal issues. I am satisfied that Senator Tower is not the right person for substantive reasons and believe it is time to get on with defense policy and the business of the Senate and the Nation and vote on the Tower nomination.

Mr. KASTEN. Mr. President, we are rapidly approaching our day of decision on John Tower. It would be helpful if we were to stand back for a moment and appreciate the true dimensions of the decision we are going to make.

We will be deciding whether we want to become only the sixth U.S. Senate in history to reject a President's Cabinet nominee. The Constitution gives the power of advice and consent—but it doesn't give us much positive guidance as to the standards we are to use in considering Presidential nominees. Neither does that distinguished series of commentaries called the Federalist Papers.

Under the Constitution, we could reject a nominee for the most frivolous reasons—and we could get away with it.

Fortunately, though, we don't have to rely entirely on the text of the Constitution as we face this decision. The U.S. Senate is a continuing body, and what we do is based on precedent. Our distinguished President pro tempore, ROBERT BYRD, has underlined this fact by publishing a monumental history of the institution—and on page after page, it becomes ever clearer that the past ought to guide us in our deliberations on current controversies.

Over the last 200 years, Presidents have sent the names of hundreds of Cabinet nominees for our consideration. We have only rejected eight. Our record is one of outstanding deference to the President's right of appointment—we have said, in effect, that it's the President who will be responsible for the performance of this nominee, and he has determined that he will accept that responsibility, so let's give the President the benefit of the doubt.

Twenty years ago, Senator Henry "Scoop" Jackson of Washington rose on this floor to support an embattled nominee for Interior Secretary, Walter J. Hickel of Alaska. Senator Jackson expressed the following view of the Senate's role of advice and consent:

(T)he President of the United States must be responsible and accountable for the administration of the executive branch. We cannot hold him responsible if we deny him his choice of principal advisers for less than overriding cause. * * * He is responsible for their official acts. The Chief Executive is entitled to exercise wide latitude in their selection.

Senator Jackson continues:

Senators may believe that a particular nominee does not meet a standard of qualification of competence that they themselves would set. But it is the President, not the Senate, who must set the standards of qualification and competence for his principal advisers.

Let there be no mistake about it, these are the President's men and he is entitled to have them, barring some flagrant error or abuse of his prerogatives in making his nominations.

That's what Scoop Jackson said. And it's not important just because Scoop Jackson was a great American—which he was—and one of the most qualified men in this country to comment on our public institutions—which he also was.

It's important because it's a terse and accurate restatement of the traditions and precedents of the U.S. Senate. We need an overriding cause to reject a nominee, and we have to give the President wide latitude.

That's the standard Henry Clay used in voting on Cabinet nominees. It's the standard Robert Taft used, and Harry Truman, and William Proxmire, and Barry Goldwater, and Jack Kennedy, and all the honorable men and women who have served the American people as U.S. Senators.

It's the standard we should use now. George Bush has decided that he needs John Tower's help in setting defense policy for America. I agree with his choice. And I think it would be an act of justice, and of respect for our institution, if we were to give the President the man he has chosen, and the man who is best qualified to serve as Secretary of Defense: John Tower.

Mrs. KASSEBAUM. Mr. President, we have been through trying days in the U.S. Senate. The debate over the nomination of John Tower as Secretary of Defense has become a very personal decision generating much emotion and tension for all of us.

We have tied ourselves into a Gordian knot of moral and ethical considerations that has left the Nation—as well as each Senator—questioning the limits of public disclosure and fair play. Under the best of circumstances this nomination would have challenged the Senate's standards of fairness. But this decision has only been made more burdensome by the process and the tenor of the debate.

Our decision on this nomination is all the more difficult because it concerns a former colleague, who served in this body for 24 years, and because it goes to the heart of the issue of separation of powers. Or perhaps to be more accurate, this decision brings to life one of the more peculiar features of our Constitution in which power is not only separated but it is shared.

Mr. President, as we are all well aware, the Constitution gives the President the right to nominate people of his choice to serve in his Cabinet. But it is only with the advice and consent of the Senate that his nominees are appointed. The genius of our Constitution is that it provides broad guidance that can withstand the test of time. The frustration is that it does not give us specific guidelines on exactly how to exercise shared power.

Advice and consent, while being the most lofty duty of the Senate, has also been one of the most controversial among practitioners and scholars over the years. I have deep respect for the institution of the Presidency and I have deep respect for our new President, George Bush. I am also aware of precedent. As has been mentioned numerous times during this debate, only eight Cabinet nominees have been rejected by the U.S. Senate throughout our history.

But, I firmly believe that our Founding Fathers did not intend for the U.S. Senate to be a rubber stamp. I also believe that our Founding Fathers made it clear in the Federalist Papers that the Senate's advice and consent process was not intended to be simply a referendum on criminality, but on overall fitness and merit for the most distinguished offices in this Nation. The Senate's role, as I see it Mr. President, is to assess whether a nominee can effectively provide the necessary leadership in the post that he or she is being nominated for and whether the nominee can enlist the public's trust.

In the nomination process we are forced to look through a prism and the images we see are diverse and sometimes distorted. In fulfilling our constitutional responsibility of advice and consent, I believe we each individually have to evaluate these images and, upon personal reflection, make a judgment. This is our duty to the President and the American people.

The Secretary of Defense, in my view, is the most important of all the Cabinet positions. The Defense Secretary is in the chain of command on deployment of forces and questions of command and control of nuclear forces. He provides leadership to our military forces and to our civilian personnel dedicated to this country's defense. And, he oversees the largest portion of the Federal budget.

We are at a critical crossroads in our national security policy. Over the next 4 years, the Secretary of Defense is going to have to provide leadership on major decisions involving force structure, arms control, strategy, personnel, and procurement, which will determine our defense posture in the next century.

These decisions are going to have to be made now and under very difficult circumstances. Budget pressures are going to demand effective leadership from a Secretary of Defense who knows how to provide a strong, effective national defense with limited funding and who can forge a consensus on controversial budget decisions among the competing services and on Capitol Hill.

Most importantly, the next Secretary of Defense is going to have to counter the debilitating impact that the defense procurement scandal has had on public confidence in our defense establishment. As a former head of the Military Reform Caucus, I have followed these very troubling issues closely over the years. There is no doubt in my mind that the Pentagon scandal has resulted in a growing erosion of public support for defense spending. The Secretary of Defense oversees contract awards worth $150 billion annually, 75 percent of the goods and services purchased each year by the Federal Government. Dealing effectively with the issues of fraud, conflict of interest, inefficiency, waste, and reform of the revolving door are the major issues on the agenda of the next Secretary of Defense.

In meeting these challenges, the next Secretary of Defense must have the confidence, trust, and respect of the American people and the Congress. Mr. President, I am going to vote against the nomination of John Tower because I do not believe he can

provide the leadership that is necessary to forge a consensus on the critical national security questions confronting us today.

My most serious concerns about the nomination of John Tower are from the public record. Although Senator Tower did not break any laws, his consulting activities over the past couple of years, in my opinion, raise very serious concerns about the nominee's judgment and his sensitivity to those major issues of conflict of interest, the role of consultants, and the revolving door. Immediately after leaving the START negotiations, Senator Tower became a consultant to major defense contractors on the implications of the arms control talks on future product development. While I know of no evidence that he disclosed any secrets or broke any laws, this action demonstrates to me an enormous insensitivity to issues and questions that have been at the heart of our defense debate for years.

Another issue that has played a role in my decision is whether Senator Tower can provide the necessary leadership on the problems in the military concerning the integration of women into the Armed Forces. A Pentagon study recently highlighted the seriousness of the problems of harassment and promotion. If we are going to have a strong defense force which consists of both men and women, we are going to have to ensure fairness. I am not confident that Senator Tower would give these issues the priority they demand or would demonstrate the necessary sensitivity to their seriousness.

Mr. President, this has not been an easy decision for me or for any of us. Members I highly respect on both sides of the aisle are diametrically and vehemently in opposition. I have discussed this matter in some detail with the President. I believe he understands my thinking just as I understand his. I regret that I cannot agree with him on this nomination. However, I believe that when the Founding Fathers created this arrangement of shared power they anticipated that a day like this one would come. They left us no guidelines for resolving the question they deliberatedly posed. Instead, they expected us to find our own answer in the same uncertain wisdom and limited understanding in which they lived and worked and so created democracy itself.

Mr. President, I want to thank the chairman and ranking member of our Armed Services Committee for performing a difficult duty with skill and honor. With no criticism of them, I must say that I have doubts and questions about the atmosphere that has built up around this nomination. I am particularly troubled by the role of the news media, which has reported the most outlandish allegations with little or no effort to discern the truth. That has been unfair to Senator Tower. It has been unfair to the President and it has been unfair to the Senate. The result has been a circus atmosphere that has distorted the debate. Despite that, I have done my best to weigh all of the factors involved in this nomination. I will vote against the nomination.

Mr. KOHL. Mr. President, the debate over the nomination of John Tower to serve as Secretary of Defense has involved a difficult and complex series of issues. Over the past few weeks we have followed the charges made about John Tower's personal and professional ethics; we have listened to concerns about the impact of this vote on the future of the Bush Presidency; we have heard whispered allegations about the motives of those who both oppose and support the nominee.

I have wrestled with my decision on this issue for several days now. I began by considering two traditional arguments: First, the President is entitled to a substantial degree of deference when it comes to selecting members of his Cabinet; and, second, John Tower—by virtue of this service here in the Senate and as a member of the START negotiations—has clearly been exposed to, and demonstrated a mastery of, many of the issues associated with defense policy.

Both of those arguments are true; yet neither dictates a decision. Of course the President is entitled to deference. The Senate has demonstrated that by approving, with virtually no dissent, each of the names he has sent up to us prior to Mr. Tower. They are not, in every case, the men and women I would have nominated to hold those posts had I been President. But they were this President's pick and, in my judgment, they had the intellectual ability, the ethical standards, and the moral standing to discharge the duties of their office. So while I would not have uniformly selected them and while I do not agree with all of their policies, I gave my consent to their confirmations. Those votes demonstrate deference; but deference alone cannot control a decision about who should serve this Nation—not just the President, but the Nation—as Secretary of Defense. Real questions have been raised about the character of the candidate and about the impact that his confirmation would have on the country. Given the nature of the issues under consideration, we have long passed the point where deference can or should be a dispositive consideration. I would point out that Senator Tower, when he served in this body, agreed with that principle. The record demonstrates that John Tower was compelled, by his sense of his responsibilities as a U.S. Senator, to oppose the nominations made by a first-term President when he concluded—after a careful study of the facts—that those nominees did not demonstrate the qualities he felt were required.

Just as deference to the President is not all controlling, neither is our appreciation of John Tower's record of service to this Nation. While there have been issues raised about this nomination, there have not been any questions asked about this nominee's love of country or intelligence. As a member and former chairman of the Armed Services Committee, as Chairman of the so-called Tower Commission to investigate the Iran-Contra affair, as a member of our START team, John Tower has demonstrated unquestioned competence as a stragetic planner and as a negotiator. There is no question about his ability in those areas. What is at question, however, is his ability and his willingness to lead in other areas critical to our national security: Specifically, if he has the background and the temperament to deal with the management and procurement problems which face the Pentagon.

In short, as I looked at the traditional arguments which would seem to require an affirmative vote on this nominee, I found nothing which compelled me to consent to his confirmation.

Balanced against those arguments were several other issues. These issues, relating to John Tower's personal and professional life are real and cannot be dismissed. They were taken seriously by the President himself who delayed selecting Mr. Tower until he had an opportunity to study some of those questions. And even after the President decided in favor of Mr. Tower, there was still concern in the administration. Despite the fact that the President was ultimately satisfied, these issues, and others, were raised again during the confirmation hearings—hearings which were, by the way, conducted in a complete and admirable way by both Senator NUNN and Senator WARNER. And this time, on closer examination, the answers were not as persuasive.

Two issues appear to be of paramount importance. One relates to Mr. Tower's drinking, the other relates to his dealings with defense contractors. Both are real sources of concern and in neither area has Mr. Tower been as forthcoming as he needed to be.

Consider the potential for conflict of interests first. Mr. Tower did not and does not acknowledge the possibility that there would be a real conflict of interest. He did, however, recognize that some people might perceive an appearance of a conflict. To deal with that appearance problem he made two offers. First, he announced that he would not participate in any decisions relative to the suspension or disbarment of any firms with which he had a past association; but, as the hearings

demonstrated, the Secretary of Defense is not intimately involved in those decisions—they are normally made by the appropriate service chiefs and not by the Secretary of Defense. Second, he indicated that he would recuse himself from any decisions relative to the one weapon system which he recalled lobbying for while he was serving as a consultant; but, when questioned at the hearings, he was unwilling to make a similar commitment if it was determined later on that he had actually lobbied for other systems as well.

In short, the steps Mr. Tower took to minimize the possibility of a real or apparent conflict of interest were not overly generous.

When we move beyond those offers and consider the larger question of the revolving door problem, it becomes clear that Mr. Tower is not sensitive to the questions which his conduct raised. In this testimony before the Armed Services Committee and in his public statements, he has not really explained what he was doing to earn the huge sums of money he made as consultant. The ambiguity concerning his actions is particularly disturbing given his role in the START negotiations. He has indicated that he did not reveal any classified information and I believe him. But as a consultant he gave his clients advice which was, to the extent it was valuable, based on his assumptions about future U.S. strategy. That did not involve the release of classified information; but it was based on knowledge of such information.

This sort of behavior was not restricted to Mr. Tower's life after the Senate. When he served as chairman of the Armed Services Committee, his orientation was to get more weapons; he did not invest a great deal of time into making sure we got them as efficiently and as effectively and as ethically as possible. His postemployment behavior was foreshadowed by his Senate career. And I fear that his record as Secretary of Defense would be as mixed, in this area, as his past has been.

Finally, in terms of the conflict of interest issue, I think we need to place this concern in a larger context: The whole issue of Mr. Tower's ability to manage the Pentagon. We face a disaster over there: A procurement system run wild, a mentality which believes that buying more is the only way to become stronger, an emphasis on technology rather than training as the preferred path of strengthening our military. Nothing in John Tower's record suggests that he would bring to the post of Secretary of Defense any great management skill. And nothing in the record suggests that he would bring a great deal of sensitivity to the ethical issues which the Secretary has to address.

Then as a whole, Mr. Tower's record in this area is not distinguished. There are possibilities for real, as well as apparent, conflicts of interest. The steps he has taken to diminish that possibility are not impressive. And the image that his confirmation would create simply would not be helpful as we continue to try to bring the Pentagon's spending under the control of sound management practices.

There is also a second broad area of concern related to Mr. Tower's personal life. I have reviewed the FBI file, and I have listened to Mr. Tower's statements about his past and present and future drinking. The plain truth is that I am not convinced—not convinced that he did not abuse on alcohol in the past, not convinced that he might not abuse it in the future. I am convinced, however, that he has been less than honest with the President, less than honest with the Congress, less than honest with the American people about his drinking. Given his past record of behavior, and his continuing efforts to dance around the truth related to that behavior, I am not impressed by his pledge not to drink again.

As others have indicated in the course of this debate, Mr. Tower's past history would disqualify him from a number of sensitive positions in the military. In my view, it makes no sense to put him near the top of the chain of command when we would not be willing to let him be a link lower down.

Let me make one more comment about this drinking issue. At one level, I wish the FBI file could be made public so that everyone could see it. The cold reality of that record would, I believe, indicate very clearly that there is more than sufficient justification for concern. You may read the record and reach the conclusion that it does not disqualify Mr. Tower—but you cannot read it and conclude that it does not indict him. My point is simply to make it clear that this is not a partisan concern, manufactured only by Democrats. It is a concern which I believe members of both parties must feel—they may reach different conclusions about the emphasis that ought to be placed on Mr. Tower's behavior, but they all share some degree of concern over it.

In that context, Mr. President, the record should be clear: The concern that many of us feel is not based just on the allegations contained in the FBI file. John Tower was provided an opportunity to respond to those charges and his responses are a part of the FBI file. John Tower was afforded every procedural safeguard, every opportunity to respond to the charges made against him, both in the Armed Services Committee and in terms of the FBI investigation.

Finally, Mr. President, there is one last area I want to address: The process by which this Senator has reached a decision on this nominee.

I'm new to the advice and consent responsibilities of the Senate. I have already indicated that I am willing to give the President some degree of deference when it comes to Cabinet level appointments. But I have heard people suggest extensions of that concept with which I cannot agree. I have heard, for example, some of my colleagues suggest that if the nominee cannot be proven guilty, then we ought to confirm him. We are not deciding if John Tower is guilty or innocent of substance abuse or conflict of interest charges; we are deciding if he is the person who ought to be the Secretary of Defense. And that is not a legal decision. It is a policy decision, it is a personal decision, and the standard is not "beyond a reasonable doubt." In terms of placing a public trust in an individual, I think that if a "reasonable doubt" has been raised, then each Senator has a right to vote "no" depending on the importance he or she places on the charge as they relate to the responsibilities of the office under consideration. The case against John Tower has not been made "beyond a reasonable doubt." But reasonable doubts have been raised about the appropriateness of having him serve as Secretary of Defense. Given the importance of that post, given the responsibilities associated with it, those reasonable doubts compel me to cast a negative vote.

Mr. DIXON. Mr. President, today, I cast my vote against the nomination of Senator John Tower to become Secretary of Defense, as I did in the Armed Services Committee on February 23. I voted against John Tower, not because of any alledged personal failings, but because I believe he is the wrong man at the wrong time. With the continuing revelations of waste and abuse associated with the procurement process in the Pentagon, we need, at this time, someone for Secretary of Defense who will command the confidence of the American public.

During the Second World War, Senator Harry Truman led a special congressional committee with responsibility for ferreting out waste and abuse in the military budget. That fight continues. The American people deserve someone as Secretary of Defense who will inspire confidence that progress in that fight is forthcoming—someone who can not only provide for a strong defense and fiscal responsibility, but inspire public support for the Defense Department and Defense programs.

Today, the Department of Defense is a department in crisis. An ill wind has been blowing across and through the Pentagon for several years now. Investigations are going on about contracts, procurement practices, illegal

acts, favoritism, unconscionable and illicit profits.

Senator Tower has substantial relations to the defense establishment and to those in the private sector who would benefit from Pentagon procurement and contracting decisions.

It is exceedingly clear to this Senator who serves on the Senate Armed Services Committee that we desperately need a leader and administrator at the Pentagon who can deal at arms length with defense industries and the Defense Establishment. Unfortunately, Senator Tower's background does not inspire the confidence that he is the man to lead the charge against waste and abuse in the Pentagon in this administration. For me, there is no way to equivocate on this fundamental point.

I have heard all the testimony. I have read the FBI reports. I have heard the debate. Having been through all of that, it is my opinion that Senator Tower is not disqualified on grounds of personal improprieties. I have not found sufficient evidence or support for a position that he is an alcoholic, an alcohol abuser or a person with an intemperate attitude toward members of the opposite sex.

The Constitution is clear on the Senates powers to advise and consent on the President's nominees. Cabinet appointees must enjoy the confidence not just of the President, but of the Senate, as well. A Secretary of Defense who does not command the support of the Armed Services Committee would have as much difficulty in executing his duties, as he would without the support of the President.

The Senate must walk a fine line. It must prevent conflicts of interest without creating disincentives to public service. I believe the Senate has carefully walked that line in this instance.

I regret what has occurred here today and my heart goes out to Senator Tower and his family.

Though I cast my vote against the administration nominee today, I look forward to opportunities to work with the Bush administration in the future.

Mr. DURENBERGER. Mr. President, I rise today to comment on the nomination of John Goodwin Tower to be Secretary of Defense.

The nomination of former Senator John Tower has been before this body for almost 2 full weeks. It has been more than 2 months since President Bush announced his intention to nominate Senator Tower. In Armed Services Committee hearings, in the media, and on the floor of the U.S. Senate the arguments for and against the nominee have been discussed at length. Through the course of the debate, tempers have flared, motives have been questioned, and partisan charges have been traded.

Senate action on this nomination has been notable—not necessarily distinguished—by a number of events. In an unprecedented manner, the debate over Senator Tower has centered on allegations of personal misconduct—not policy positions or the nominee's expertise in the relevant issues. For the first time, the Senate has debated the differences between "alcoholism," "alcohol abuse," and "excessive drinking" during consideration of a Cabinet nominee. How to handle information contained in a confidential Federal Bureau of Investigation report made available to the Senate provoked disagreement and led to a series of parliamentary opinions that may guide future Senate action in such cases.

If Senator Tower is to be rejected—as it appears he will be—it will mark the first time a former Senator has been rejected by this body. Only eight times in history has the Senate rejected a Cabinet nominee—never in the first days of a President's tenure.

The Senate role in providing advice and consent is fundamental to the separation of power enshrined in the Constitution. In 1787, the founders of our Nation met in Philadelphia to plan for the governance of our young democracy. Among the checks and balances they adopted was the process for the appointment of heads of departments, Supreme Court Justices, and ambassadors. While the popularly elected president was to be free to nominate ambassadors, Cabinet chiefs, and Supreme Court Justices, only the Senate would make appointments final with its advice and consent.

As a U.S. Senator, I have a solemn obligation to carefully consider and decide the question of the confirmation of any nominees submitted to the Senate. No duty is more important than exercising the power contained in Article II, section 2 of the Constitution to consent to the most senior officials of the executive and judicial branches of government.

Soon after I came to the Senate, I was faced with a decision whether or not to confirm Abner Mikva, a former congressman from Illinois, for the U.S. Court of Appeals. As I stated at that time, it was my conviction that the proper role of the Senate was to carefully assess the qualifications, competence, and ability of the nominee. Political and personal considerations, such as my strong disagreement with many of Congressman Mikva's liberal views, were an inappropriate basis for rejection of the President's choice. This is the standard I have applied throughout my 10 years on the Senate. It is the standard I applied to Senator John Tower, and the standard I will apply in the future.

In my consideration of Senator Tower's nomination, I did not see any facts which would disqualify Senator Tower, especially given his unquestioned knowledge of defense issues and record of public service. I believe the burden of proof is on opponents of a Presidential nominee and in this case, that burden was not met.

I am disturbed by the degree to which anonymous allegations about Senator Tower were featured in the media. The unsubstantiated stories, premature endorsements, and condemnations, and the leaks of the confidential FBI report on Senator Tower have denigrated what should have been a careful and deliberative process. The most sensational headlines dissolved under close scrutiny—yet the images remained. All men and women in public service know the extent to which print and electronic media can publicize damaging, distorted, and inaccurate reports. We also know that even when corrections are forthcoming, the damage can linger long beyond anyone remembers specific allegations.

Senator Tower, and his family, have endured "trial by media" where the accused cannot face his accuser and where there is no right of appeal. Stories about Russian ballerinas or improper behavior during visits to military installations may make fascinating reading but do little to aid the Senate in its weighty constitutional duty.

I also find it disturbing that Senate hardly addressed the tremendous problems facing the Department of Defense over the next 4 years. The next Secretary of Defense faces a series of unprecedented challenges to U.S. national security. The next Secretary will have to rebuild public trust in a procurement system beset by scandal. The next Secretary will have to make difficult choices about the defense budget that faces a shortfall of billions of dollars. These choices will be complicated by the fact that fiscal constraints are increasing at the same time that international tensions are perceived to be decreasing.

The next Secretary of Defense must deal with a Soviet leader that has mastered public relations without, so far, reducing Soviet military might. As the arms control process moves far beyond the INF Treaty—in nuclear, chemical, and conventional weapons—the next Secretary of Defense must ensure that arms control is an element that supports overall defense policy, not an end in itself.

The next Secretary of Defense faces challenges with our allies as well as our adversaries. The democracies in Europe and Japan face many calls to increase their share of the free world's defense burden, yet their citizens increasingly question the need for even current levels of defense spending. The next Secretary of Defense must deal with new Third World challenges that are the most likely forms of con-

flict our Nation faces: illegal narcotics trafficking; antidemocratic insurgencies; terrorism.

These are just a few of the major issues that the next Secretary of Defense will have to address as we move toward the 21st century. Unfortunately, these issues were not discussed in the debate over President Bush's nominee for Secretary of Defense.

Rather than examining these vital national security issues—and Senator Tower's ability to deal with them—opponents of the Tower nomination chose to focus on "appearances" and "perceptions" they felt outweighed John Tower's unquestioned ability and experience with defense issues.

A number of Senators did not succumb to the temptation to base their judgment on an appearance fed by the media, but rather chose to rely on first hand experience with the nominee. Senator CHRIS DODD of Connecticut, one of the few Democracts to vote for Senator Tower, defended the Secretary of Defense nominee on the floor of the Senate by stating:

And there is other evidence on John Tower: It is in the memory of those of us who served beside him during part or all of his 24 years in the Senate, and those who worked beside him in Geneva or on the Iran-Contra inquiry. No one who has watched and worked with John Tower throughout his career in Government has stepped forward to accuse him of misconduct or impaired judgment, or to corroborate any of the allegations of misconduct that have appeared in the press.

Throughout my career, I have believed that presidents, be they Republican or Democrat, are granted the right in the Constitution to appoint those individuals who will carry out their beliefs. The Senate has an obligation to overrule the President's judgment only when an individual nominee clearly lacks integrity or is clearly unfit to serve. In the consideration of Senator Tower, Senators expressed their concern only about perceptions, not about documented cases that illustrate illegality or unfitness. I believe a majority of Senators are voting to reject a caricature of John Tower, not the person President Bush nominated.

Mr. President, under our constitutional system, the Senate has a unique role. The Senate was created and designed to decide the great issues of the Nation's future, and to do so in relative immunity from the pressures and demands of shifting public opinion. In my view, we have violated that central purpose in our disposition of the nomination before us.

We have allowed our focus, as Senators to be drawn from the historic issues of national security to the oft-times sensational and always titilating mythology which has grown up around this nominee. In so doing we have taken a further step into a serious error which both parties have engaged in over the last decade: the politics of personality.

Mr. President, we are a nation of laws rather than men. Down the road we are now traveling, with the aid and comfort of the national news media, we lose our identify and our function as a government of laws and not men.

In the event the Tower nomination is defeated Mr. President, we will soon have another nominee before us. I hope we will quickly regain our institutional bearings and return to our historic application of the power of advice and consent. Much more than a single Cabinet position is at stake. The sound and the fury of what we have gone through the last 2 weeks shows us what this body may permanently become unless we make a decision, on both sides of the aisle, to foreswear the politics of personality and get back to deciding the crucial issues of our future as Americans.

Mr. BURDICK. Mr. President, I regret the grueling and fragmented discussion that has occurred on the nomination of John Tower to be Secretary of Defense. I have never before in my Senate career witnessed such controversy over the nomination of an individual to serve on the President's Cabinet.

I regret that the motives of our respected Armed Services Committee chairman, SAM NUNN, have been called into question. I have great respect for the Senator from Georgia.

I regret also that dispute about this nomination is being construed as a first strike at President Bush. I don't believe that is true. There is no hidden agenda here, and my vote is not intended as a shot at the President or at my former colleague.

But I will vote no. After careful consideration of the evidence, I have concluded that John Tower is unable to serve the needs of the Department of Defense and the greater needs of our country as Defense Secretary. I am convinced there is a qualified and responsible candidate out there who would be more than merely acceptable to the majority, the minority, and the President.

Now, some Members on the other side of the aisle have accused the majority of demanding perfection and not allowing any human failings. Well, after reading the FBI report, I am convinced that John Tower is far more human than your average military serviceman. I believe there was doubt in the President's mind about his stature and character when he delayed the announcement of his choice for Secretary of Defense.

President Bush said his administration would know right from wrong "and avoid even the appearance of what is wrong." From the evidence I have seen, this nomination seems wrong.

I base my opposition to the nomination of John Tower on several factors. Like many Members, I am concerned about his alcohol consumption. I am especially concerned about his failure to acknowledge that he once had a serious problem or that drinking may have impaired his judgment at any point.

I am also concerned that John Tower may not be committed to improving the conditions and status of women at the Department of Defense. The new Defense Secretary should be committed to utilizing the valuable human resources of the Defense Department, male and female. The FBI report documents sexual advances toward women that seem in very poor taste.

I am concerned that John Tower may not be committed to improving military procurement procedures. The Defense Secretary controls almost one-third of our national budget. Whoever controls that huge slice of the pie must be responsible and willing to make tough choices.

Finally, I believe that John Tower exercised very poor judgment and questionable ethics in aligning himself to a number of defense contractors so shortly after being involved in high level, strategic arms negotiations.

Because of these many concerns, I do not believe John Tower would be effective in the important position of Defense Secretary. I have no other choice but to vote "no." Thank you.

Mr. HEINZ. Mr. President, the system of checks and balances created by our Constitution is something every American knows about, at least in the abstract. Today the Senate is in the process of performing one of those checks, the power to advise and consent to nominations, in the glare of media attention and the heat of partisan conflict.

I fear that the political overtones of the nomination of John Tower to be Secretary of Defense are obscuring the serious, constitutionally mandated work we are supposed to do.

Under the Constitution, our duty entails an unbiased and thorough consideration of each nominee, with due consideration given to the President's prerogative to choose his own Cabinet. Our job is to weigh all the evidence, whether firsthand or otherwise, and decide whether a President's choice for the Cabinet meets threshold standards of competence, probity, and reliability.

In the case of John Tower, a large portion of the Senate has the unusual advantage of long and close association with the nominee. Having worked with John Tower over the years, there is no doubt in my mind that he is a man of unusual ability who has an ex-

traordinary knowledge of defense issues and the capacity to conduct himself above the standard we should set for anyone in such a position of trust and responsibility.

But we have more than past association to rely upon. We have hours of testimony before the Armed Services Committee, we have hundreds of pages of investigation by the FBI of every shred of rumor and innuendo that was raised against John Tower.

A reading of the FBI report certainly reveals instances where one could disagree with judgments that John Tower has made in conducting his private, personal life. But I can find no suggestion that any aspect of his personal life has influenced his on-the-job performance as a Senator or as arms control negotiator in Geneva. And there is no evidence that his personal conduct would in the broadest sense make or expose him to being a security risk.

About John Tower's competence to fill the post of Defense Secretary, there is no dispute. The majority report of the Armed Services Committee says of the nominee, and I quote:

> Senator Tower has a substantial understanding of national security policy and international security affairs. His 20-year service as a member of the Senate Armed Services Committee, including 4 years as Chairman, his service as Chief US Negotiator in the Strategic Arms Reduction Talks [START], and his chairmanship of the Tower Board have provided Senator Tower with a solid background on national and international security issues. His expertise was evident during the Committee's hearings, during which Senator Tower was questioned on a wide range of national and international security policy issues.

Given Senator Tower's clear substantive qualifications for the job of Secretary of Defense, and the absence of any compelling evidence of continuing personal conduct or problems that would impair his ability to perform that job, I see no reasons not to give consent to the President's choice. I support the nomination of John Tower to be Secretary of Defense, and will vote for his confirmation.

Mr. RIEGLE. Mr. President, my vote against John Tower's nomination is based upon a very careful reading of all the materials in the FBI report and the investigative files of the Senate Armed Services Committee. That record makes it clear that this nominee should not be confirmed as Defense Secretary. If Michigan citizens could read the same information, I think they would overwhelmingly reach the same conclusion.

The problem of serious alcohol abuse spanning the decade of the eighties clearly exists, and is documented in this case. Military rules which apply to personnel in America's nuclear chain of command today provide an absolute and flat prohibition against service by anyone with a history of alcohol abuse. The nuclear chain of command is the one where the rules must be obeyed every hour of every day without exception—and that must include—first and foremost—the Secretary of Defense.

There is also a serious problem of conflict of interest. Were he confirmed, Mr. Tower's previous private employment with several major defense contractors would throw a shadow over every future weapons procurement decision he was involved in—or otherwise prevent his participation in the major procurement decisions altogether. Neither option is sound—and especially so at a time of a major weapons contracting scandal at the Defense Department, and revolving door abuses, which must be aggressively cleaned up by the next Secretary.

The rejection of this particular nominee for this unique Cabinet position should not obscure the fact that all 10 other Bush Cabinet nominees now at work have been confirmed unanimously by the Senate—with only a single dissenting vote in one case by Senator JESSE HELMS.

Our constitutional separation of powers provides special safeguards to protect our Nation. It is the precise exercise of one of those safeguards that has occurred in this case.

The person in America who commands our nuclear forces—second only to the President—is the Secretary of Defense.

The Constitution of the United States directly requires the U.S. Senate to make an independent, affirmative judgment on whether a person nominated to be Defense Secretary is properly suited to that task. Our careful examination must eliminate any material doubt as to the nominees sound future performance and determine that there are no discernible risk factors associated with this person that could impair the proper discharge of the duties of that office.

A majority of the Senate, 53 Senators, acting in behalf of the American people—could not make that affirmative finding in the case of this candidate.

While it has been an unpleasant task for all involved—the Senate has done its work carefully and well—and has properly met its responsibility in this matter.

SOME CLARIFICATIONS ON THE TOWER DEBATE

Mr. DOLE. Mr. President, earlier today the distinguished chairman of the Committee on Armed Services, Senator NUNN, made a statement on the proceedings on the Tower nomination. He raises a few points I would like to reply to.

First, the Senator from Georgia accurately quotes my comments on the committee' proceedings on Thursday, February 23, before the committee voted on the Tower nomination. Unfortunately, he did not report my remarks in their proper context. Here is what I said:

> "* * * I think most Senators believed, that the nominee is going to have a fair hearing, not a trial, a fair hearing in the Senate. And they have had a very thorough, a very exhaustive and a very fair hearing in the Armed Services Committee. The only thing I hope is when they meet later today it is going to be a vote that expresses the concerns of the Senators but it is not going to be party line."

I made those remarks on the assumption that the committee's extensive examination of the FBI file would lead it to give appropriate weight to unreliable evidence, and in hope that a bipartisan majority of the committee would recommend John Tower's confirmation. Unfortunately, I had no idea at the time that SASC would reject Tower in a straight party-line vote.

The chairman makes the point that no Republican member of the committee made a motion to call witnesses, put them under oath, take depositions or issue subpoenas. I believe this to be true. Nothing in my experience—until this nomination—would have led me to suggest such a course of action. Had we known that John Tower's reputation would be marred by rumors and leaks, and that the majority would place such weight on unreliable evidence, someone might have raised the procedural issue earlier.

Senator NUNN feels the Senate has taken unfair criticism for not releasing the FBI file. This is not quite true. Rather, we have been very concerned that negative information from the file was repeatedly leaked, but the other side of the story could not be told. One example is the Russian ballerina story. Our frustration was that once such information leaked and did Tower damage, the American people needed also to know that the ballerina and her piano were figments of the imagination of a doctor who is not a doctor, but who used a variety of names.

The chairman correctly states that the President routinely declines to nominate individuals to posts on the basis of FBI files. This is, of course, true. The difference is that prospective nominees are not treated to the public humiliation which has been heaped on John Tower.

Chairman NUNN says that nobody has a right to a Cabinet appointment so nonselection is not a violation of due process. Again, this is quite true, but individuals do have a right to fairness. The spirit of "due process"—if not the precise details—should live in

all our public proceedings. This was not the case in the Tower nomination.

Then Senator NUNN raises a number of questions we would have to resolve if we want to turn the Senate confirmation process into an adversarial court proceedings. The questions would indeed have to be answered if that is what we wanted to do. But this is a false dilemma because this is not what we suggest. We only raised "due process," open procedures, cross examination, the right to face accusers, and so forth. When it became obvious that John Tower was being railroaded by rumor and innuendo.

Senator NUNN says that a number of allegations against Tower were resolved in committee. This is precisely the point. Possible connection to the "Ill Wind" investigations or unauthorized contacts with foreign agents were found to be groundless. The process should have stopped there. Instead this was only the beginning of a campaign of rumor and innuendo.

Finally, the chairman explains that SASC did not call witnesses, cross examine, and so forth, because they relied on the FBI report. The FBI did not give SASC a report; it provided a file for them to judge. We in the Senate should seek facts, set the record straight, and act accordingly. Unfortunately, the SASC majority suspended judgment and relied upon the cumulative weight of allegations in the file. This is the wrong standard.

Mr. President, I hope we will soon return to the standards of fairness we have usually used in committee and on the Senate floor when considering nominees.

I would also note that in an exchange with the Senator from South Carolina, Mr. HOLLINGS, I suggested that perhaps the bounds of propriety had been stretched and offered to compare actual quotes with those appearing in the scrubbed record.

Actual Hollings quote; "and put in Mr. Alcoholic Abuser as Secretary of Defense, man what you talking about in this body."

As it appeared in the record: "When he is a known alcohol abuser himself."

Actual Hollings quote: "There is not any question as to the partisan nature of Senator DOLE and his assault on this body."

As it appeared in the record: "There is not any question about the partisan nature of the other side's assault on this body."

I know tempers can flare on an issue like this, and I do not wish to fire back at the Senator from South Carolina. My only point is that we must keep in mind fairness to the nominee, and keep our comments more like those we would like to see in the RECORD rather than like some of the inflammatory commands we have heard on the floor.

The VICE PRESIDENT. Under the previous order, the hour of 4 o'clock having lapsed, the question is, Will the Senate advise and consent to the nomination of John G. Tower, of Texas, to be Secretary of the Department of Defense? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 20 Ex.]

YEAS—47

Armstrong	Gorton	McConnell
Bentsen	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Packwood
Burns	Hatfield	Pressler
Chafee	Heflin	Roth
Coats	Heinz	Rudman
Cochran	Helms	Simpson
Cohen	Humphrey	Specter
D'Amato	Jeffords	Stevens
Danforth	Kasten	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Garn	McClure	

NAYS—53

Adams	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Graham	Moynihan
Boren	Harkin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kassebaum	Riegle
Burdick	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dixon	Levin	Simon
Exon	Lieberman	Wirth
Ford	Matsunaga	

So the nomination was rejected.

The VICE PRESIDENT. Under the previous order, the motion to reconsider the vote by which the nomination was not confirmed is laid on the table, and the President is to be immediately notified of the Senate's action.

EXECUTIVE OFFICE OF THE PRESIDENT

NATIONAL DRUG CONTROL POLICY

The VICE PRESIDENT. The Senate will now proceed to the consideration of William J. Bennett to be Director of the National Drug Control Policy.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of William J. Bennett, of North Carolina, to be Director of the National Drug Control Policy.

The Senate proceeded to consider the nomination.

The VICE PRESIDENT. The Senate will be in order.

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I ask a parliamentary inquiry. What is the order of business before the Senate.

The PRESIDING OFFICER. The order of business before the Senate is the nomination of William Bennett to be the Director of National Drug Control Policy.

Mr. BIDEN. Thank you, Mr. President.

The PRESIDING OFFICER. Debate is limited, the Chair further advises, to 30 minutes equally divided.

Mr. BIDEN. Mr. President, I say to my colleagues we now move to a less controversial but in my view not less important nomination for Cabinet-level office.

The newly created post is one that has been referred to in the press, and on this floor off and on for the last 8 years in which we have been fighting for its establishment, as Drug Czar.

Mr. President, the Senate is about to vote on one of the most important nominations that President Bush will make in this administration, the nomination of Dr. William J. Bennett to be the first Director of the National Drug Control Policy.

I say this is most important for two reasons: First, Dr. Bennett has been nominated to lead this Nation in the struggle against what could be the most serious threat that we will confront in the next decade; a threat that has a greater danger of taking the life of American citizens than a Soviet bullet or a Soviet bomb.

Second, this nomination is truly historic. Not only is this an entirely new Cabinet-level position, but the authorities that Congress has conferred upon the drug Director to draft the national antidrug strategy—and I might note we have none now—and a drug budget are also unprecedented. That is why the mandate that the Senate and the President give to Dr. Bennett as the first drug Director will largely determine how this office operates in years to come.

Mr. President, when the Judiciary Committee opened its hearings on Dr. Bennett two issues were of critical concern to me: first, whether Dr. Bennett is the right man for the job; and, second, whether he understands what Congress envisioned his job to be.

I was encouraged by Dr. Bennett's testimony on both these issues. I think his direct and outspoken approach is

just what we need in the new drug Director post.

Dr. Bennett will undoubtedly have to go head to head with some of his Cabinet colleagues, and he appears ready to do exactly that if necessary.

I was also encouraged by Dr. Bennett's testimony that, in drafting the new strategy, he will have to make some tough choices and that he knows we must take some risks by trying some previously untested approaches.

I pledged that, if he in fact acts in good faith to try to accomplish and put in place a new drug strategy and take on the various turf wars that will surely ensure, he would have my full support.

By necessity, Mr. President, Dr. Bennet's answer to many questions relating to drug policy issues were vague, but on the whole he did shed some light on several important issues. Dr. Bennett testified that his support for increased funding for Federal antidrug programs was real. He testified that we need to increase funding for education, treatment, and drug prevention.

Finally, Dr. Bennett testified he would ensure that the effort to combat drugs will not be carried out at the expense of civil liberties.

As he stated in response to one question, "If we were to solve the drug problem by interfering and abridging people's constitutional rights, then it would really be a hollow victory."

This morning the Judiciary Committee overwhelmingly voted to confirm Dr. Bennett. He clearly has the bipartisan support of the Judiciary Committee, but in order to succeed, Dr. Bennett must have the full and complete support of the President of the United States.

We are all taking about Dr. Bennett's drug strategy. The fact of the matter is, just as the Secretary of Defense, the Secretary of State, or any other Secretary, he has no strategy of his own. It is the strategy of the President. Whether or not Dr. Bennett succeeds or fails, is going to, in large part, depend upon the full support of the President of the United States. It is the President who signs off on the strategy and the budget, and it is the President who will have to make clear to every member of the Cabinet that they are obliged to follow both the letter and the spirit of this strategy.

Mr. President, I urge my colleagues to support this nomination so that Dr. Bennett can get to work on the strategy which is due in 180 days. This will be a massive undertaking, and it will require Dr. Bennett's full attention. I pledged to Dr. Bennett that the Judiciary Committee will not call him up to testify very often in the next several months, as long as he follows through in the statutory requirements of beginning to get this job completed. Although the Judicicary Committee and other committees have strong interests in the drug issue, I think we would be well advised to wait until the strategy is completed before we start to question him.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 2 minutes to my good friend from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 minutes.

Mr. BAUCUS. Mr. President, Montana has always been a good place to live. A great place to raise a family. Our cities are friendly, the countryside is wide, open, and scenic.

On some stretches of highway you see more cattle than people. In some parts of the State you see more bears than people. We've managed to avoid the stress and crime of larger places. But unfortunately, one problem is catching up to us—drug abuse.

Here are some very alarming facts concerning drug use in Montana:

In 1983, authorities confiscated 24 grams of cocaine. In 1988, they confiscated 7,000 grams, a 266-fold increase.

In 1985, an ounce of cocaine in Billings cost approximately $2,600. Today, the price is down to $900. As the laws of economics tell us, the price decreases as demand increases.

Drug Enforcement Administration cocaine arrests in Montana have increased 100 percent in 5 years.

Members of the Los Angeles street gangs, the Bloods and the Crips, have been arrested in Billings on drug charges.

Drug enforcement authorities have shut down two methamphetamine labs in the State. Methamphetamine, a highly addictive speed derivative, is growing in popularity and may pose as big a problem as crack. Rural areas are especially conducive to methamphetamine production.

A runaway shelter in Billings estimates that 90 percent of the children it serves are substance abusers. The average age of the runaways is 14.

A recent poll conducted by Yellowstone County revealed that sixth graders had access to crack and that a small percentage of them had used it within 30 days of the survey.

The point of my statement today is not to paint a picture of Montana as a haven for drug dealers and users. Instead, it's to let the Senate know that rural areas are not immune to the problems of drug abuse and that we should receive adequate resources for our needs.

Montana is the fourth largest State in the Union and has a land mass of almost 150,000 square miles. It is bigger than the combined areas of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Hawaii.

Those 11 States have a total of 491 DEA agents, 1 for every 90,000 residents. Montana has only three DEA agents, 1 for every 267,000 residents.

The United States has declared a war on drugs. But how are we supposed to win that war with inadequate funding and staffing? Administration rhetoric isn't going to stop drug dealers. We've got to back up our commitment with funding to do the job. Not just in our cities, but across the country and across the State of Montana, as well. Montana, along with other rural States, needs more agents and more antidrug assistance.

I talked to William Bennett yesterday and let him know about the problems we're facing in my home State. He's an impressive fellow. He seemed genuinely concerned. I have confidence in him and believe he will commit himself to ending drug use in this country. But he needs our help.

The Senate must back up its commitment to ending drug abuse by providing the resources to get the job done. That means States like Montana should have the resources to attack drug abuse before it's too late.

Public awareness of the drug problem in Montana is very high. State and local authorities, schools, parents, teachers, and others want to fight drugs, but they need money and additional Federal agents to do it. I ask the Senate to keep this need for resources in mind when considering further steps in the war on drugs.

Mr. LEAHY. Will the Senator yield?

Mr. BIDEN. I yield 1 minute to the Senator from Vermont.

Mr. LEAHY. Mr. President, I will vote to confirm the nomination of Dr. William J. Bennett to be Director of the Office of National Drug Control Policy—the so-called Drug Czar.

President Bush has selected this nominee to tackle an exceedingly difficult job. We all know that illegal drugs have penetrated every level of our society. They infect our homes, our schools, our workplaces.

Drugs are no longer somebody else's problem. It does not matter if you live in the city, or the suburbs, or in a rural State like Vermont. No American and no American family is free from the baleful effects of this scourge.

A recent headline in a national newspaper asked, "Does the Drug Czar Face a Mission Impossible?" That question speaks volumes about public perceptions of the drug problem, and about the challenges this nominee will face.

If the Drug Czar's job is to singlehandedly turn the tide in the war on illegal drugs, without the cooperation, hard work and even sacrifice of anyone else, then of course he does face "mission impossible." That unrealistic view of this job would be consistent with a long and unhappy Washington tradition. We have heard many stirring speeches against drug

abuse, but we have not seen enough Federal action targeted to make a significant contribution to the antidrug effort.

The Federal Government has an important role to play in combatting the drug problem. That role embraces foreign policy, law enforcement, treatment and education. That role includes deploying Federal resources to cut back on illegal drug supplies and to dampen the demand for illegal drugs.

But the most important aspect of the Federal role is leadership. The Federal Government must devise a prudent and balanced antidrug strategy, and then demonstrate that it can stick to that strategy for the long haul. Turf battles and bureaucratic bickering must be put aside. The stakes are too great for "business as usual" in the Federal bureaucracies, or here on Capitol Hill.

The war on drugs will not be fought in Washington. It will be fought in every American city and town, where the pain and the waste of the drug scourge are most keenly felt. And the war on drugs will not be won by a President, nor by Senators, nor even by a drug czar. It will be won by ordinary Americans, who mobilize through their families, churches, schools and local law enforcement to fight this menace.

The post of Drug Czar has enormous potential: not to win the war on drugs, but to help mobilize the American people, and government at every level, to fight that war more effectively.

That is why the Drug Czar's job is not "mission impossible." If the job is to get the Federal Government to play its antidrug role more efficiently and more effectively—to deliver the tools and the leadership that the American people need to combat the drug problem—then I think the job, while very difficult, is not impossible.

Success in this mission will call for a variety of skills and strengths. It will take the ability to take charge, but also the humility to take advice. It will require tough talk, but also careful listening. It will be a "bully pulpit," but also a bureaucratic cockpit.

We cannot expect to find all these varied, even contradictory, qualities in a single nominee. Dr. Bennett brings strengths to the post to which he has been nominated. He also brings weaknesses. He will need to build on the strengths he has demonstrated in nearly a decade of public service, but also to overcome some of the deficiencies that many have identified in that service.

Mr. President, as a member of the Judiciary Committee, I participated actively in last week's hearings on this nomination. I was encouraged by the nominee's responses to many questions, including his recognition that our Nation must commit more resources to international efforts to suppress the supply of illegal drugs around the world. I remain concerned about his approach to some other issues. For instance, some people believe his testimony may have given some mixed signals about the need to protect civil liberties at the same time that we step up efforts to fight drugs.

I believe that we can make progress in combating drugs without sacrificing our valued individual freedoms. Dr. Bennett expressed his agreement with that proposition during the hearing. But in this, as well as in many other areas, his statements and actions as Drug Czar will bear close scrutiny and oversight by the Judiciary Committee.

Mr. President, the mission of the new Office of National Drug Control Policy is not "mission impossible." But it is a mission that will test the leadership qualities of all of us, not only those of the Drug Czar. As Dr. Bennett embarks on this mission, I offer him my support and my cooperation. I know he will find the members of the Judiciary Committee, and other Senators regardless of party, ready to cooperate with and support him as he undertakes this crucial task.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Dr. William J. Bennett, President Bush's nominee for the position of Director of the Office of National Drug Control Policy.

As my colleagues are aware, Congress established the Office of National Drug Control Policy as a part of the Anti-Drug Abuse Act of 1988. The Director of National Drug Control Policy is charged with the responsibility for coordinating all Federal efforts in combating the growing illicit drug problem. The fight against the illegal drug trade and abuse in this country will require an individual of exceptional knowledge and skills.

Mr. President, Dr. Bennett is an individual with a wide breadth of experience having served as a former Secretary of Education, a professor of philosophy, educator and administrator. He received his bachelor's degree from Williams College in 1965, and in 1970, received his doctorate in philosophy from the University of Texas. In 1971, Dr. Bennett graduated from Harvard Law School. From 1971 to 1976 he served in a number of academic positions at Boston University and the University of Wisconsin. In 1976 he became executive director of the National Humanities Center in North Carolina and from 1979 to 1981 he served as president and director. Dr. Bennett was appointed by President Reagan in 1981 to serve as Chairman of the National Endowment for the Humanities, where he remained until 1985. After serving as Secretary of Education from 1985 to 1988, Dr. Bennett then became the president of the Madison Center.

Dr. Bennett is an individual with a strong commitment as well as the will and dedication required to develop an effective and well-coordinated national drug control strategy. He has the leadership ability, insight and common sense that are essential in strengthening and fostering the cooperation needed among all agencies involved in drug enforcement. That, Mr. President, is not going to be an easy task. I am confident, however, that Dr. Bennett understands the importance of succeeding in this effort and he will undertake his duties and responsibilities in a diligent and cooperative manner. Through this effort he will ensure that the war on drugs is the priority domestic issue that President Bush and this Congress have deemed it to be.

Mr. President, we have a crisis of major proportions on our hands. The magnitude of the drug problem we face is so serious that it will impact on every American in some manner. Dr. Bennett must succeed in his mission. We should remember, however, that to be successful it is imperative that Dr. Bennett have the complete cooperation of all agencies involved in the war on drugs. This is a matter that I intend to follow closely. In the interest of our youth and our country I sincerely hope that Dr. Bennett is the most successful member of President Bush's Cabinet.

The drug problem in this country is real and one that endangers the vitality of our Nation. A recent U.S. Chamber of Commerce report stated that:

> The annual cost to the business community due to drug abuse is $60 billion in decreased productivity, increased absenteeism, medical claims, workplace accidents, and employee theft. Studies have shown that employees with drugs in their systems are one-third less productive and nearly four times more likely to injure themselves or another person in a workplace accident.

The report also gave some startling statistics supporting concerns of the business community.

Sixty-five percent of those entering the full-time work force for the first time have used drugs illegally.

Twenty-three million Americans use marijuana on a regular basis; 6 million use cocaine on a regular basis—that is to say at least four times a month. Furthermore, three-quarters of those calling the cocaine "Hotline" said they sometimes took cocaine on the job while one-quarter said they used cocaine on the job daily.

More than $110 billion is grossed annually from the illegal sale of drugs in the United States. This is more than

double the total that American farmers take in from all crops and more than double the combined profits of all Fortune 500 companies.

Illegal drugs are more potent, cheaper, more available, and, in some circles, more accepted than ever before in American society. The threat is greater because the drugs are more lethal.

Mr. President, I feel that Dr. Bennett's knowledge, integrity, judgment and experience have prepared him well for this position. I am impressed with his willingness to assume such a challenging and demanding role in this Nation's fight against illicit drugs and for that he should be commended. I am certain that Dr. Bennett will serve capably and honorably as the Director of our National Drug Control Policy.

Mr. President, Dr. Bennett is clearly qualified for this important position and I urge my colleagues to vote for his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield 1 minute to the able Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am happy to rise on behalf of Bill Bennett for the Director of National Drug Control Policy. He served with great distinction as Secretary of Education and Chairman of the National Endowment for the Humanities. I do not know of anybody who can articulate better than Bill Bennett, who will understand things more. I expect him to be a great Director of this antidrug program throughout our country, and I expect him to give inspiration and leadership to that program.

Mr. President, I could not speak more highly of an individual than I can of Bill Bennett. I am proud to support him, and I urge all of our colleagues to support him. I think this country will be well off for it.

The first duty of government, Mr. President, is to protect its citizens. Our Constitution's majestic preamble speaks not only of defending against external enemies, but also insuring domestic tranquillity. Drug abuse threatens that tranquillity every day.

Drug thugs are not content to kill with their product alone. Their instruments of death include not only powders and pills, but bullets. No longer is it rare to hear of deliberate executions. They kill kids, firing-squad style; they kill bystanders and innocents; they kill cops; and they may well kill the rule of law, if we don't hold them accountable for their carnage.

This violence has created a virtual state of emergency. Urban hospitals frequently witness wounds once limited to the battlefield. The crush of drug-related criminal cases clogs the courts, handicapping the administration of justice. To fight drugs we have had to make the Government larger, more powerful, and more expensive—thus more dangerous. Drug abuse jeopardizes not only addicts, but all of us.

DRUG ABUSE EDUCATION/BENNETT RECORD

Bill Bennett is supremely qualified to examine the roots of this tragedy. Why do people turn to drugs in the first place? Those ignorant of the consequences must be educated; and Dr. Bennett, with his admirable record as Secretary of Education, has proven himself worthy of our trust in that task. Under his leadership the Department of Education published "What Works: Schools Without Drugs," a tremendously popular publication which received widespread distribution and acclaim.

But some people who should know better get involved, too. Why, Mr. President? Have changes in the schools, organized religion, and the family left us vulnerable? Has self-discipline weakened along with other traditional values? I don't expect Bill Bennett to know all the answers, but he has already demonstrated a unique capacity to pose the right questions—those that, by provoking debate and stimulating further study, will help us attack the drug threat at its roots.

One thing about Bill Bennett: Nobody can accuse him of a lack of candor. He says what he thinks; and he thinks well.

COMMITTEE JURISDICTION

Now that Secretary Bennett is responsible for coordination in the executive branch, we ought to coordinate the Congress. Here in the Senate, at least 21 committees and subcommittees exercise jurisdiction over some aspect of national drug abuse policy. In the House, it's worse—at least 53 committees and subcommittees. The Director is required by law to appear before duly constituted committees and subcommittees of the Congress. We have an important oversight role, but unless we exercise some restraint the Director won't be able to get the job done.

If we are serious about this issue, we must coordinate our own handling of drug control policy.

SUCCESS IN UTAH

Mr. President, I am proud to mention that my home state of Utah has already experienced notable success in reducing drug abuse among our children, by attacking the demand side of the problem. I anticipate forceful leadership from Director Bennett in this regard, as well as on the supply side.

CONCERN FOR MEMBERS OF MINORITY GROUPS

Like the great Justice Harlan, Secretary Bennett believes that the Constitution is colorblind, and that it prohibits discrimination on grounds of race, period. He believes in affirmative action as originally conceived: you cast a wide net, and look for those who may have been excluded before; but you do not make decisions on the basis of color, and you never use quotas.

Bill Bennett has demonstrated genuine concern for the serious problems facing certain segments of minority communities. As Secretary of Education, he visited a disproportionate number of minority schools. These were not mere media events. He talked and he listened, not only to adults but also to students. As Secretary of Education, he devoted particular attention to the challenge of educating the disadvantaged.

LAW ENFORCEMENT EXPERIENCE

Beyond his studies of criminal law and procedure in law school, Secretary Bennett has had a longstanding interest in criminal justice matters. As Director-designate, he has already spent a great deal of time meeting with those on the front line of law enforcement. Although he has more personal experience on the demand side, he is well qualified to work on the supply side as well.

CONCLUSION

Bill Bennett is the right man for this extremely difficult job. I urge my colleagues not only to confirm him today, but to demonstrate their cooperation and support by permitting him to do the job. Let's not force him to march back here for endless hearings. Let's not second- and third-guess his budget requests. Above all, let's not prevent him from speaking out.

Mr. President, I wholeheartedly endorse the nomination of my good friend, a fine public servant, Bill Bennett.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the able assistant minority leader, Senator SIMPSON.

Mr. SIMPSON. Mr. President, I will just say, not quite with the speed of Senator HATCH, that indeed, I have come to know Dr. Bennett. He is going to do a superb job. The chairman of the committee is very correct. We have an oversight role that is very crucial. The important thing to me, and Senator HATCH said it beautifully, that we must preserve and protect this man from becoming absolutely fragmented from appearing on the Hill testifying to 21 committees or subcommittees in the Senate and 53 in the House, that feel that they have a great interest here, and they do.

We must protect him from that, and I think the principal thing, and I shared it with the chairman this morning and members of the committee, is to begin to work and clean up the technicalities so that we can have joint hearings of all of the House committees and subcommittees, or at least thin out this process so that people do not use William Bennett for seven camera hearings all over this particu-

lar Hill. I think that is going to be an important thing. The chairman indicated his feeling about that, but again now to work on the procedural aspect, because I know, when I worked in immigration reform, Congressman MAZZOLI and I had a tough row to hoe, just to have a joint hearing of the House and Senate. It s absurd. We need to do that, and I know well. We are here to serve and to see that Dr. Bill Bennett does the job.

Mr. SIMPSON. I would like to compliment the chairman of the Judiciary Committee, the junior Senator from Delaware, for his expeditious handling of this nomination in compliance with a request of the White House. He has been a real leader in the effort of the Senate to establish an independent office within the administration to oversee Federal drug control activities. The Judiciary Committee was able to proceed swiftly with the nomination and to discuss many important issues regarding the nomination.

During the Judiciary hearings, the qualifications of Dr. Bennett to become the Nation's first Director of National Drug Control Policy became so very evident. He has accumulated the experience in the very highest levels of government that will serve him so well in commanding the respect and attention of his colleagues in the President's Cabinet as he goes about coordinating Federal efforts to end the scourge of drugs.

This Senator was particularly struck by Dr. Bennett's testimony in the Judiciary Committee hearings that the only reason to take on this job for which he is nominated is to solve the illegal drug problems which the country faces. Certainly drug control is a depressing, humorless subject. Dr. Bennett will be required to work long hours for substantially less income than he could command in the private sector. He stated that the only reason to take the job was to "make a difference" in the war on drugs. That impressed this Senator and it impressed others. It spoke of his dedication and confidence and I believe he will accomplish his goals.

Mr. President, it is now time for Dr. Bennett to get right to work assembling his staff and working out his course on drug control strategy. I am confident that he and his team will do a super job and that the country will be well served. I whole heartedly applaud the President's selection of Dr. Bennett as his nominee. Welcome aboard! Thank you Mr. President. I yield the floor.

Mr. KENNEDY. Mr. President, I speak in support of William J. Bennett's nomination as the Nation's first Director of National Drug Control Policy. His credentials are impressive and he has demonstrated both an ability and a willingness to grapple with the various facets of the drug problem.

I commend Senator BIDEN on his efforts over many years to establish this important post within our Government. Senator BIDEN deserves great credit for his perseverance in establishing this important position. It was not always popular, but it has been embraced now by both the Congress and the President.

Dr. Bennett and I did not always agree on the issues during his tenure in the past administration, but he has been an effective advocate for the administration's policies. His speeches and testimony over the past several years demonstrate that he has spent considerable time examining many of the issues he will face in his new position.

Mr. President, the Nation is at a critical turning point in the war on drugs. In light of the severe budget constraints we face, the greatest challenge may well be to spread our limited resources in the most effective possible way. As the confirmation hearing testimony and the Judiciary Committee report demonstrate, Dr. Bennett understands that a winning strategy against drug abuse involves three approaches: law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored.

If I have any concern about Dr. Bennett's qualifications, it stems from his past commitment to hardline approaches that place too little emphasis on drug abuse prevention and treatment. There is no army large enough to keep drugs from crossing our borders. We do not have the resources to enable us to apprehend or imprison every pusher and supplier. In my view, excessive concentration on supply-side tactics can leave the Federal battle on drugs in the same failing condition that excessive emphasis on supply-side economics has left the Federal battle on the deficit.

The evidence is clear that prevention and treatment programs work. Congress has expanded the Federal education effort significantly, but we are far short of the investment in prevention and treatment that we need to make acceptable progress in this battle. Last year, Congress clearly indicated its intent to balance our extensive national investment in interdiction and law enforcement with an equal emphasis on education and treatment. The President's budget does not yet reflect this priority, and I hope that we can work together with Dr. Bennett to attain it.

We all know that the most cost-effective antidrug program is prevention. In fact, the national high school senior survey conducted by the University of Michigan Institute for Social Research showed just how effective efforts to teach students about the harmful impact of drugs can be. Students who don't think drugs are harmful are four times as likely to use cocaine as those who believe there is a risk from using it on a regular basis. In school year 1985-86, there was little perception of the risk of cocaine use and little change in use. By the next school year, things had changed dramatically. During this period, there was great media attention to the death of prominent athletes, we started the drug free schools program, and launched the "just say no" campaign. The number of students who saw a great risk in use of cocaine increased 41 percent, and the use of cocaine declined 31 percent.

An intensive drug education program in the schools in my own home State of Massachusetts also demonstrated the effectiveness of education programs. Our programs reduced the use of illicit drugs among high school seniors between 1984 and 1987 twice as fast as drug use fell nationally.

Other programs around the country have also shown great promise—the DARE Program in Los Angeles and 37 other States across the country—it uses police officers in conjunction with school teachers in a drug education program in grades K-12—and peer counseling programs used in a wide variety of school districts, for example.

Attorney General Dick Thornburgh recently told the National Governors Conference that the war on drugs is "more likely to be won in the schoolroom. * * * It will be won or lost," he said, "on the battlefield of values."

As important as education and prevention are in fighting drug abuse, they obviously cannot do the job alone. According to the National Institute of Drug Abuse, we have 6.5 million addicts in the United States today. Prevention programs are too late for this large group; our only option is rehabilitation.

While we have much to learn about effective treatment, there is no doubt that treatment is effective. A recently published study using data from a National Institute of Drug Abuse survey of a large sample of addicts entering treatment found that, as long as 12 years after treatment, employment was up 60 percent, and criminality had dropped from almost 90 percent of clients to less than 20 percent. Most important, daily use of illegal drugs had dropped from 100 percent of clients to less than 40 percent. Another study from the Department of Justice found that every dollar spent on treatment paid off in reduced crime costs, often at rates of three or four to one.

If we step back for a moment, and look at prevention and treatment in the context of our overall drug effort, I think President Bush has stated the priority very succinctly. He said:

> Fundamentally, the drug problem in American is not one of supply, but of demand. As much as we can do to bust the smugglers and the dealers, as much as we do to eradicate crops and stop the flow of drugs

into this country, as long as Americans are willing to pay billions of dollars for illegal drugs, somebody somewhere in the world will provide them.

And yet, we are spending almost 70 percent of our Federal dollars on interdiction, eradication and law enforcement—$4.1 billion—under the Bush Budget, and only 30 percent—$1.8 billion—on treatment and prevention. We need a Director of National Drug Control Policy who will redress this imbalance.

Even on the enforcement side, wiser policies are needed, especially at the State and local level—where the real war is fought every day on our streets and in our communities. State and local law enforcement funding is an item which the past administration consistently and unsuccessfully sought to eliminate. We need to put an end to this dispute, and see to it that needed funds are there.

This year's proposed budget seeks over $100 million for local law enforcement so I am glad to see that President Bush seems to be on the right track. But $100 million is not sufficient and it is important to allocate these funds to programs with proven success.

Local law enforcement agencies have had success through concerted crackdowns on street crime in drug-infested neighborhoods. These programs—where local police go into a drug trafficking area and make saturation arrests of traffickers, dealers and buyers—eliminate street drug sales in targeted neighborhoods, reduce the rate of drug-related crime, isolate new drug networks and increase the numbers of drug addicts who seek treatment.

Congress is committed to the State and local law enforcement Federal grant program. We need a Director of National Drug Control Policy who shares that commitment and will see to it that State and local street crime crackdown programs get the funding they deserve, both through the grant program and through the drug Director's authority to designate drug disaster areas.

In closing, I believe the issue of assault weapons deserves the attention of the Director for National Drug Control Policy. For those who wondered whether senseless drug-related killings in America could get worse, the answer lies in the fact that gruesome killings caused by easily obtained assault weapons are becoming all too frequent. The ease with which these weapons can be obtained is fueling the arms race on the streets of every community in America. William J. Bennett raised these concerns early last year in a memorandum to then-Attorney General Meese. In that memorandum, which Dr. Bennett provided to me at my request and which I submitted as part of the confirmation hearing record, together with other memoranda Dr. Bennett authored on the drug issue, he stated:

> The easy access to firearms has put increasing fire-power in the hands of drug traffickers. We should consider supporting legislation to better manage the production, importation, and sale of automatic weapons and other firearms, as sought by the major law enforcement organizations.

Dr. Bennett commented at his hearing that he continues to have personal concerns on this issue, but chose to reserve judgment for 6 months. President, Bush has indicated that he is now giving serious consideration to this issue in light of Dr. Bennett's remarks. It is my hope that these comments reflect an understanding of the tragic linkage between drug-related crime and the proliferation of firearms, particularly assault weapons.

Dr. Bennett has been hard at work on this new assignment and he is eager to get on with his duties, the first of which will be to develop a comprehensive strategy to combat drugs. I look forward to working with him toward that goal in the months ahead. The war on drugs is one war that America cannot afford to lose.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I am privileged to support Bill Bennett's nomination as Director of National Drug Control Policy. It may very well prove to be one of the most significant decisions made by President Bush. Bill Bennett deserves our full support and assistance as he embarks upon duties that are crucial to all Americans. Indeed, the future of the country may depend on the success of his endeavors in the war on drugs.

Mr. President, the drug problem—like any other malignancy—is too often perceived today as something that happens to the other fellow, or the other fellow's children. If the Office of National Drug Control Policy is to be meaningful, it must have at its head a person persuasive enough to enlist the support of the millions of Americans who, up to now, have been content to sit out the drug crisis facing this country.

Mr. President, if there is a man in this Nation up to the task by instinct as well as training, it is Bill Bennett. A former college professor, law school graduate, assistant to the president of Boston College, director of the national humanities center in North Carolina, head of the National Endowment for the Humanities, and a former Secretary of Education, Bill Bennett is first and foremost an educator and leader.

Mr. President, while he is tough enough to see the task through to the end, he is also wise enough to know that the drug problem will not be brought under control until all Americans focus on the depth of the problem and the danger it poses to our children, our families, our communities and indeed the Nation. And Bill Bennett has the strength of character necessary to bring about this change in the force of public opinion concerning the drug war and the necessity of improving our law enforcement efforts.

Specifically, Mr. President, Dr. Bennett will be charged with devising a national drug control strategy to better coordinate the efforts of the numerous agencies trying to stem the flow of drugs and as well as deal with the disastrous effects of their use. I believe Dr. Bennett will be better able to succeed in this task if he is made a fully participating member of the President's Cabinet.

To that end, Mr. President, I have cosponsored Senate Resolution 19 which calls on the President to make the Director of National Drug Control Policy a fully participative member of his Cabinet. Indeed, I believe that was precisely our intent when the Director's position was created as one of our last acts in the 100th Congress.

Finally, Mr. President, we are acting prudently in confirming Dr. Bennett with dispatch because lives are lost each and every day to the scourge of drugs plaguing our Nation. Dr. Bennett can and will use his new position to quickly begin the task of reversing this human tragedy.

I thank the distinguished Senator for yielding to me and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the able Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. D'AMATO. I rise today in support of confirming William J. Bennett as Director of National Drug Control Policy.

At his confirmation hearing last week, Bill Bennett said that if confirmed as Drug Czar: "We will likely shake things up pretty good."

Mr. President, let the shakeup begin.

Let it begin at the State Department, where year in and year out, inaction by drug-producing countries is explained away and minimized.

Let it begin in the military, so that our own borders are better defended against the smugglers' planes and ships.

Let it begin right here in our Nation's Capital, where there have been 102 killings so far this year.

We need to shake up our educational institutions as well. In New York City, only 30 percent of the 1 million children in public school get any kind of drug prevention education at all. The other 700,000 children are being neglected. Mr. President, that is criminal.

And who is reaching out to the children most at risk—those who are not in school? Those with parents who themselves are alcoholics and drug users?

In the area of treatment, we have only about 250,000 treatment slots for 6½ million people in immediate need. For crack addicts, relapse rates approach 100 percent.

We need to stop ignoring—and we need to start penalizing—the casual user. We need to define when we want to use drug testing.

Mr. President, I know that Bill Bennett has the courage, dedication and intellectual honesty that this most important job requires. He recognizes that we have failed to build a criminal justice system that our people can believe in. He will not be afraid to force the issue. We need more prisons, prosecutors, and police. And if we are really serious, we are going to have to find the money to pay for them.

The challenge is enormous, Mr. President. As Bill Bennett said last week, "this war is not for delicate sensibilities."

Mr. Bennett is in for the fight of his life.

But more important, he is in for the fight of our children's lives.

I know that all of us join in praying that he succeeds.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield the remainder of my time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. SIMON. Mr. President and my colleagues, I am going to cast a negative vote. I recognize Mr. Bennett is going to be approved.

What we want is, No. 1, someone who is going to be an effective administrator. And the reality is as Secretary of Education he was not a good administrator. He was a great gadfly in calling attention to the problems, but in administering the Department he was not strong.

A former Member of this body, a Republican who chaired the Education Subcommittee, said if he had known how he was going to proceed he would not have voted for him.

No. 2, what we want is real dedication on this issue of drugs. We are talking about something that is a horrible scar on the face of this country. A year and a half ago William Bennett came and asked this body for a cut of one-half in drug education funding.

That does not indicate to me the kind of dedication that we ought to have. There is no question in my mind that he is a person of great ability. And there would be nothing that I would like better than to have him prove my vote wrong.

But on the basis of the record, I expect from the new drug czar a blizzard of press releases, but not much action.

We are talking about something that is deadly serious for the future of this country. And what we need is someone who is, frankly, not a high-profile person who is going to be getting a lot of publicity. We need somebody who is going to go in and act and move and get some action for this country. We need action, not words.

And I regret to say on the basis of the record up to this point, I fear from Bill Bennett we are going to get words rather than action. I hope my vote will be an indication to him that there is concern. I hope a year from now to stand on the floor of this body and say I was wrong. But on the basis of the record up to this point, my vote will have to be cast in the negative.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. GRASSLEY. Mr. President, I rise to support the President's nomination of William J. Bennett to be the first Director of the Office of National Drug Control Policy.

As I stated during Mr. Bennett's confirmation hearing, the Director of National Drug Control Policy must be concerned with the children of today, and tomorrow:

Will we leave our children a society that tolerates or promotes drug use, thus cheapening the gift of life?

Will we leave for them a nation where drug related violence in the streets and the schoolyard threatens their ability to grow and learn—indeed, to survive?

The evil residue of drug abuse and drug related crime has been well-documented:

First, increased violence;

Second, low worker productivty;

Third, decreased motivation of our young people to achieve educational excellence;

Fourth, unsafe public transportation, both on the ground and in the air;

Fifth, impaired military preparedness; and

Sixth, public and private corruption.

If our war on drugs is to be more than a slogan, we must recall an admonition from a former President, and general, Dwight D. Eisenhower.

As he put it: "When you appeal to force, there's one thing you must never do—lose."

Our children cannot afford us to lose this war.

And so we must engage all of our available weapons: Education, interdiction, prosecution, rehabilitation, and treatment.

We all know that drug abuse is one of the most serious and most tragic problems our country faces.

Dr. Bennett stated that the drug problem in America is ferocious and is clearly the Nation's No. 1 domestic priority.

Its costs to the Nation in terms of narcotics related crime, health care, drug education programs, and drug users' lost productivity, is staggering. Although no truly accurate figure is available, most who are knowledgeable about our drug problems place the amount well into the billions of dollars.

In addition to these tangible costs, the Nation bears an incalculable burden in terms of ruined lives, broken homes, and divided communities.

As many have long recognized, we are in a war against drugs. However, many of us who have recognized this fact also believe that we have yet to adequately wage a serious campaign to win this war.

One key to winning the war against drugs is the affirmation of the Federal Government's strong role and commitment to combatting drug abuse. I believe the enactment of the Omnibus Anti-Substance Abuse Act of 1988 is evidence of that role and commitment.

I applaud the President, who—given the current serious budget constraints—has made Federal anti-drug abuse programs a priority.

I also know that the President has told the members of his Cabinet that he intends to spend time consulting—possibly more than many other members of the Cabinet—with Dr. Bennett. The President has also let all relevant Federal agencies know that they are to cooperate with Dr. Bennett and his staff.

An important function of the new Office of National Drug Control Policy is the requirement that the Director draft and implement a national drug control strategy within 180 days of his confirmation, and then annually thereafter.

With this mandate in mind, Dr. Bennett has stated that he is impressed "by the dedication of so many organizations and individuals who are daily working to keep drugs from reaching our borders, educate Americans about the evils of drugs, and rehabilitate those who have become addicted."

He continued:

Part of my responsibility is to bring these people and their ideas together, not only to learn, but to build upon what they have already accomplished. I hope that some of the successful programs and projects can be replicated across the country to help communities struggling to cope with their drug problems.

As I develop a national plan I will seek the advice and assistance of all Americans.

I know that Dr. Bennett will want to find out what works in drug enforcement, drug treatment, and drug rehabilitation, and then determine which budget priorities will be consistent with the national strategy.

As a member of the Senate Judiciary Committee, I look forward to working with Dr. Bennett in drafting and implementing a workable national drug control strategy.

For instance, I believe, if the war against drugs is to have a chance of success, we need to orient our attack toward the demand for drugs.

Because, while interdiction of the supply of illegal drugs into this country has been more successful than ever, it has not—nor can it—to sufficiently reduce the availability, use, and demand for drugs now rampant in America.

I am also convinced that Dr. Bennett is now very aware that there are no areas in America that are untouched by the menace of drugs, and that includes America's heartland.

Certainly, we must recognize the areas that have the highest drug infestation—generally those areas populated by minorities, by those who are least educated, and by those with meager economic means.

However, if we concentrate only on those areas—or if we think only these segments of society are abusing drugs—we are off the mark. As Dr. Bennett knows full well, our rural areas are struggling hard to rid their communities of drugs and they need our help as well.

I am very glad that Dr. Bennett will be including rural America's drug problem in his overall national drug strategy recommendations.

Finally, I concur in Dr. Bennett's assessment that people such as airline pilots, railroad engineers, and other occupations where the welfare of many is at stake need to understand that they may be asked to be tested for drug use.

Of course, we must continue to be sensitive to all civil rights issues in these delicate areas, but that must also be balanced when the welfare of many innocent people is at risk.

The new Office of National Drug Control Policy, under the leadership of Dr. Bennett, cannot be expected to provide all of the answers to solving this country's drug problem immediately; in fact, it can only be a part of our total response.

Americans themselves must return to traditional and long-standing notions of individual responsibility for the consequences of one's actions. In fact, in response to a question from the assistant Republican leader, Senator SIMPSON, Dr. Bennett said that "what we are really talking about is changing attitudes and making people realize that drug use is unacceptable."

Certainly, we need compassion for those former drug abusers, who seek rehabilitations. But we are hopefully past the era when illegal drug use is called a "harmless, victimless" crime.

Thus, we need an equal measure of compassion for the victims of drug abusers.

Swift, sure, and exact punishment for those who do not respect the rights of others must never go out of style in our arsenal of weapons.

Many of us know Bill Bennett from his days at the National Endowment for the Humanities and the Federal Department of Education; and, many of us have known him before that.

We know that a hallmark of his success has been his recognition that this country was founded upon the basic value of freedom and autonomy, tempered by individual responsibility.

Bill Bennett once said he did not want to be a "Grey Bureaucrat." Knowing his background—and the nature of this new assignment—I do not think he is in any danger of that.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the able Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. SPECTER. Mr. President, I congratulate President Bush on his selection of Dr. William J. Bennett as Director of National Drug Control Policy, and I am pleased to express my support and vote for his confirmation today.

Dr. William Bennett is well-qualified for the position of Director of National Drug Control Policy as reflected in his impressive list of accomplishments and experiences. Dr. Bennett began his long distinguished career as an academician. From 1971 to 1981, he served as assistant to the president and assistant professor of philosophy at Boston University, assistant professor of philosophy at the University of Wisconsin, Madison, and executive director and president of the National Humanities Center in North Carolina.

In 1981, Dr. Bennett began his service for the Federal Government when he was appointed by President Reagan to be chairman of the National Endowment for the Humanities. He served in this position until 1985 when called upon by President Reagan to be Secretary of Education. Currently, Dr. Bennett is president of the Madison Center, a Washington, DC, based public-interest organization.

As Secretary of the Department of Education and chair of the National Institute for the Humanities, Dr. Bennett displayed his capacity as a strong administrator, as well as his ability to address broader issues of concern to our Nation, such as drugs. In 1986, the Department of Education implemented the Drug Free Schools Act of 1986, a drug abuse education grant program. That same year the Department also issued the first edition of "What Works: Schools Without Drugs." Dr. Bennett also has served as a member of the National Drug Policy Board, the highest-level drug policy entity in the Federal Government. Dr. Bennett has been outspoken on matters concerning the drug crisis, having testified before Congress on the matter, and made numerous speeches as Secretary of Education.

I support the nomination of William Bennett to be Director of National Drug Control Policy. If confirmed by the Senate, as I am sure he will be, I have every confidence that he will perform his duties with exceptional skill, as he has other positions in the past.

Mr. President, moving beyond the qualifications of Dr. Bennett, I believe that he will need enormous help from the Senate, the House, and from the entire executive branch if he is to have any opportunity to complete this very important mission.

During the course of the hearings, a number of subjects were discussed showing that Dr. Bennett is going to have to work very closely in foreign relations to take a strong hand in the curtailment of the growth of drugs in South America, He is going to have to take a strong hand involving the Department of Defense on the judgment made by the Congress to involve the military in interdiction. He will have to take a strong hand in the activities of the Department of Justice where so many of the activities of the Drug Czar must be implemented.

Mr. President, the job also involves extensive efforts in the field of education, where perhaps the only long-run solution to the problem of drugs exists in terms of telling those from kindergarten on up what are the dangers of drugs in light of experience that 7 and 8, 9-year-olds use drugs.

Beyond those lines, Mr. President, Dr. Bennett is going to have to have cooperation on adequate funding so that there are sufficient investigators and task forces, so that there are sufficient judges and perhaps most importantly, jails to house armed career criminals engaged in drugs.

And so, Mr. President, beyond focusing on the qualifications of Dr. Bennett, we ought to say to ourselves we are going to have to help him on this enormous job if it is to be done.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the able Senator from Washington State.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Mr. GORTON. Mr. President, it is my privilege to express my enthusiastic support for the nomination of William Bennett to be Drug Czar of the United States.

Dr. Bennett's record as Secretary of Education, in focusing the attention of the American people on the vital importance of education to our youth and on many dramatic proposals for change and improvement, graced that office during the latter years of the Reagan administration. I am convinced that he has the ability to focus the same kind of attention on the part of the American people to the terrible challenge of the scourge of drugs in this country.

Many of my colleagues have already spoken of the necessity for better antidrug education programs and better rehabilitation. I trust and I believe that William Bennett will also focus his attention on necessary improvement in law enforcement efforts aimed not only at drug producers and drug pushers, but at the drug users themselves who are the root cause of this problem.

Finally, Mr. President, I wish to express my deep hope and desire that Dr. Bennett will clearly be in charge of the antidrug effort in the United States and that the President will recognize him as being in charge of that effort. We have seen in this morning's paper the untoward comments of Dr. Sullivan in connection with free needles for addicts under some circumstances. Mr. President, I think that is a terrible idea, an idea which, like it or not, implies the approval, however conditional, of the Government of the United States for drug use. I do not believe that we can stand the possibility of having two voices in the Federal Government with respect to drugs. I hope that Dr. Bennett is truly the Drug Czar of the United States.

Mr. THURMOND. Mr. President, I ask unanimous consent for an additional 8 minutes for this side.

The PRESIDING OFFICER. The Chair understands the Senator from South Carolina is requesting an additional 8 minutes?

Mr. THURMOND. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. I object.

Mr. THURMOND. Mr. President, I ask for an additional 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object.

Mr. THURMOND. Mr. President, I ask for an additional 3 minutes.

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

Mr. THURMOND. I yield 2 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I want to add my name to the list of supporters of Bill Bennett.

Mr. President, I have heard the criticisms of William Bennett—that he is brash, controversial, opinionated. Some have gone so far as to call him a gadfly and a wild cannon.

But I am reminded of Harold MacMillan's description of Winston Churchill: Churchill was fundamentally what the English call unstable—by which they mean anybody who has that touch of genius that is inconvenient.

Bill Bennett has a talent for being inconvenient—a Churchillian knack for saying things widely criticized and indignantly dismissed that turn out, in the end, to be utterly true and resoundingly vindicated.

His tenure at the Department of Education released that agency from its slavery to every passing educational fad, and called attention not only to the fundamentals of learning but the fundamentals of character and citizenship. His accomplishments even managed to convert opponents like the Washington Post which grudgingly concluded he had been as good a Federal commissioner or Secretary of Education as the country has ever had.

His decision to reenter Government is an example of public service at its best. To take the position of Drug Czar he will give up $1.5 million in confirmed speaking fees over the next year. All for a job which, though vital, is bound to be thankless.

Bill Bennett brings to the war on drugs a hundred horsepower mind that combines the politician's mastery of confrontation with the scholar's respect for ideas. President Bush could not have made a better choice.

And he will occupy a position at the Office of National Drug Control Policy that is absolutely essential, as events in the last couple of days have shown. The Bush Administration must speak with one voice on drugs. We can not have Cabinet members voicing their own policies, some as irresponsible as Government provisions of needles to drug users. Bill Bennett must be the spokesman, the sole spokesman, of administration drug policy.

But, as he realizies, the war on drugs is not going to be easily won. Last month 23 million Americans used illegal drugs—10 percent of the population. Americans now spend more money on cocaine than they do on automobiles. We import three times more dollars in drugs than dollars in imported oil.

And it is not just a big city problem. Per capita drug abuse is actually highest in communities from 10,000 to 25,000 people.

And all this hits hardest among the young. Crack can now be bought in two-thirds of American schools. The average age for first-time drug use has dropped to below 13—entry level junkies in the seventh grade.

What can we do? In the Senate, we need to explore innovative, tough policy proposals.

We need to ensure that drug users are not shielded as handicapped under civil rights laws—rendering it impossible to make public housing projects or the workplace drug-free.

We need to consider tougher sentences for drug crimes, particularly for repeat offenders.

We need to look at the possibility of taking government benefits, like FHA or student loans, from those who are convicted of drug possession.

We need to marshall all the Nation's resources, including the ministry, to stop this poisoning of our Nation.

Proposals like these are important, even necessary. But we should also never lose sight of a simple truth. The war against drugs will ultimately be won or lost not in Congress, or the courts, but ultimately in the hearts and minds of individual Americans. The forces that can forever drive out drug abuse are self-restraint, self-respect, character. And these are learned by instruction and example around the dinner table, in the pew, at the school.

It is when these virtues and values are rewarded and celebrated—from parents and the pulpit, from community groups and the media, from student councils and city councils to the highest councils of state—it is then that we will see a drug-free America.

Mr. President, I intend to stand with Bill Bennett in that America. And I intend to offer him all the support I can to make it happen.

Mr. President, I ask unanimous consent that an article in The Washington Post of August 11, 1988, entitled "William Bennett Steps Down," be printed in today's RECORD.

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

[From the Washington Post, Aug. 11, 1988]

WILLIAM BENNETT STEPS DOWN

We know all the things that are wrong with William Bennett. As education secretary he has been a pop-off artist, ravenous ink hound, ambitious partisan and conservative ideologue. He has tried to send all America to school with the Jesuits, has been only distantly concerned with the true plight of the poor and has been much better at identifying obvious problems than at proposing or working toward solutions. All true—and he has also been as good a federal

commissioner or secretary of education as the country has ever had.

We say that not out of any abiding sense of agreement with him. We continue to oppose his controversial views on many subjects—vouchers, for example, tuition tax credits, to some extent the proper place of religion in the schools. The administration has at times proposed and he defended fundamental cuts in college student aid that would be disastrous. In mounting criticisms of higher education particularly, he has sometimes taken advantage of an anti-intellectual streak in the country that in other contexts he is first to deplore.

The virtue that has more than compensated for all this has been a willingness, even eagerness, to poke the educational establishments with a sharp stick. They badly need it, and no predecessor has done it, certainly not with the same obvious relish. At the elementary and secondary level he advocated merit pay, the teaching of values and religion (not as doctrine but as subject matter), a freeing-up of the schools, higher standards, more accountability. He said the schools and school people, his putative clients, aren't doing the job, and too often they're not. He no more than anyone else knows how to achieve the mass leavening of public education that is necessary, but he pointed to supposed successes around the country and tried to stir the mix. His argument was that this was a more important thing for him to do than safeguard the small proportion of funds for elementary and secondary education that come from the federal government, and he is probably right (even though his posture also served the useful political purpose of diverting attention from the Reagan education budgets, never very large).

In higher education he also railed a little against quality, but mostly against cost. Partly he has been demagogic in this, skipping too easily over the seriousness of the people who run the nation's colleges and universities and the obdurate problems they face. The quality for which the secretary alternately calls is not cheap; he cannot have it both ways. But it is also true that, as a whole, the higher education community has not done enough to hold down costs, which have been rising too fast, and faster than the federal aid that is intended to defray them and open doors particularly for the poor. Sooner or later the federal government as a major payer is going to move on the cost of higher education just as it already has on the cost of health care. What the colleges won't do themselves the taxpayers will try to do for them.

Mr. Bennett as critic sharpened the national debate about education in a way he could not have as traditional advocate. That was his contribution. It will outlast a lot else done in this administration.

Mr. DOMENICI. Mr. President, I rise in support of confirmation of the nomination of William J. Bennett to be Director of the Office of National Drug Control Policy.

Mr. President, every Member of the Senate knows these frightening statistics:

Thirty-seven million Americans used an illegal drug in the past year.

Twenty-three million use illegal drugs at least monthly.

Six million people use cocaine.

Half of all high school seniors have tried an illegal drug at least once—1 in 18 have tried crack.

Americans spend between $30 and $130 billion per year on illegal drugs.

Ten to fifteen percent of all highway fatalities involve illegal drug use.

Cocaine-related hospital emergencies have tripled in the past 4 years.

Twenty-five percent of AIDS victims acquired the disease through intravenous drug use.

Drug use in the workplace costs the Nation as much as $100 billion annually in lost productivity.

Last year, the Congress took a major step toward combating the scourge of drugs in our country by enacting the Omnibus Anti-Drug Abuse Act. I believe that the Omnibus Anti-Drug Abuse Act is the strongest antidrug bill in many years, particularly in its focus on decreasing the demand for drugs.

I predict that in 2 or 3 years, after we have seen this legislation fully implemented, the bill will be viewed as a turning point in the war against drugs. It will be seen by all as the catalyst for winning the war against drugs and making America drug free.

One of the crucial elements of the Anti-Drug Abuse Act was the creation of a new Office of National Drug Control Policy to lead the campaign against illegal drugs in our society.

I am not exaggerating when I say that I think the position of Director of the Office of National Drug Control Policy is one of the most important jobs in the country. It will take a gifted leader to bring the scattered resources of our Government together in a comprehensive strategy to defeat the drug menace.

The President has chosen William J. Bennett, the former Secretary of Education, to undertake this task. The President has chosen wisely, as Secretary Bennett is uniquely qualified to lead the war against drugs. He understands that we face a problem not only of inadequate resources, but more importantly a problem of inadequate values. If we are to eliminate illegal drugs from American society, we must change the attitudes of too many in this country who tolerate illegal drug use.

Secretary Bennett understands the need to change attitudes about drugs. He has pledged to provide leadership in the war on drugs. I am confident that he can provide that needed leadership, just as he provided leadership on issues affecting education when he was Secretary of Education.

I urge his confirmation. Thank you.

Mr. KENNEDY. Mr. President, I intend to vote in favor of Dr. Bennett's nomination. His credentials are impressive and he has demonstrated both an ability and a willingness to grapple with the various aspects of the drug problem.

Dr. Bennett and I have not always agreed on the issues, but he has been an effective advocate for the administration's policies. He has spent a great deal of time over the past several years examining many of the issues he will face in his new position.

Senator BIDEN deserves great credit for his perseverance in establishing this important position. It was not always popular, but it has been embraced now by both the Congress and the President.

The Nation is at a critical turning point in the war on drugs. In light of the severe budget constraints we face, the greatest challenge may well be to spread our limited resources in the most effective possible way. Dr. Bennett clearly understands that a winning strategy against drug abuse involves three approaches: law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored.

The Senate should act quickly to confirm Dr. Bennett so that he can get on with his duties, the first of which will be to develop a comprehensive strategy to combat drugs. I look forward to working with him toward that goal in the months ahead. The war on drugs is one war that America cannot afford to lose.

Mr. BINGAMAN. Mr. President, today I will vote against the confirmation of William J. Bennett as Director of the Federal Office of National Drug Control Policy. I regret having to oppose this nomination, but I believe the problem of drug abuse in our country poses too serious a threat to vote in any other way.

We all know how serious America's drug problem is. The people of New Mexico and of every other State in this Nation—the people we represent and who look to us for leadership—know how serious the problem is. And when they look to us for leadership in the fight against drug abuse, as they do now, we must not let them down. We must provide leadership. I doubt seriously if Dr. Bennett will provide that leadership.

The Director of the Federal Office of National Drug Control Policy must be a leader. The legislative mandate is clear. The Director is to head a comprehensive national campaign against illicit drug use. He must resolve the difficulties that necessarily will arise when so many different agencies of the Federal Government—and State governments—are involved in a unified effort of this magnitude.

The Director of this Office, with duties such as these, must be determined and aggressive. Without question, Dr. Bennett is determined, and he is aggressive. But the Director of this Office must be more. If we are to achieve any level of unified success in our war against drug abuse, our leader

must be committed to the issue and he must be experienced. This is where I fear Dr. Bennett will fail. I believe this for two reasons.

First, as Secretary of the Department of Education, Dr. Bennett displayed virtually no commitment to a Federal role in educating our children about the dangers of drug abuse. In fact, he actively opposed efforts to involve his Department as a major player in drug abuse education efforts.

For example, in 1986, after considerable thought and debate about the serious problem of drug abuse in our Nation's schools, the Congress and the President determined that the Secretary of Education should have between $200 and $250 million to educate our children about drug abuse. A few months later, however, Dr. Bennett told the Congress that his department's drug education program needed only half that amount. Yet a full 2 years after the department's drug abuse prevention program was funded by Congress, the Secretary still had not prepared even one antidrug abuse curriculum framework for school administrators or teachers.

I could go on, but the point is this; throughout his tenure as Secretary of Education, Dr. Bennett simply lacked a commitment to combatting drug abuse in our Nation's schools with education. Yet virtually everyone is in agreement that our Nation's drug problem will not be eradicated, or even lessened, until the demand for drugs is eliminated. And this can be achieved only through education.

But this is not my sole concern. As I said, the leader of our fight must be experienced. A task of this magnitude is not conducive to on-the-job training.

This means that the Director of the Office of National Drug Control Policy must be able to deal effectively with the law enforcement aspects of illicit drug use. But there is nothing in Dr. Bennett's background to support a conclusion that he knows anything about the functions or needs of our law enforcement agencies and personnel. Dr. Bennett has done nothing to demonstrate that he understands law enforcement or has the ability to work with law enforcement agencies, and this troubles me.

Mr. President, I will conclude by stating again that I regret having to cast a vote against this nomination. But drug abuse is one of the most serious problems we face. It threatens to destroy an entire generation, and all of the talk and debate in the world will not bring us one step closer to arresting that threat.

We need action, and we need it now. Dr. Bennett is a lively debater. But the leader of our fight against drug abuse must do more.

THE DRUG CZAR SHOULD BE A FULL MEMBER OF THE PRESIDENT'S CABINET

Mr. DIXON. Mr. President, I come before my colleagues today to express my support for the nomination of William J. Bennett to be the Director of National Drug Control Policy, a position commonly known as the Drug Czar. I want to take a moment to point out that Mr. Bennett would not be here today if it had not been for the years of effort by my distinguished colleague JOE BIDEN and others who worked so hard to create this position. I applaud their diligence and share their commitment to ridding the Nation of the scourge of drugs.

I believe Mr. Bennett to be suited for this position. I have no qualms about his ability to keep attention focused on the war on drugs or his capability in working his way through the bureaucratic zoo and its turf wars for which Washington is famous.

I do, however, wish to take just a moment in the debate on the nominee to remind this body and this Nation that the Drug Czar will not be a regular participant in the President's Cabinet. I think that's wrong. When President Bush decided not to include the Drug Czar as a regular participant in the Cabinet, I thought it was the wrong way to go, and I still think it is wrong. All of the assurances given by the administration and the nominee that he will have the support and the ear of the President are encouraging. They do not go far enough to convince me that this administration will go the distance in stopping the flow of drugs into the United States and into the arms of our citizens.

I can appreciate the President's desire not to have so many people in the Cabinet as to stifle the decision-making process. I agree wholeheartedly the President should have only his top advisers around the table. Surely, the Drug Czar is one of those people.

In private industry, a corporation does not hire a top level manager and recognize the office by putting a desk in the hallway and providing a copy of staff meeting minutes. It sends mixed signals. Mixed signals are wrong signals, Mr. President.

My resolution, Senate Resolution 19, which I introduced January 25, urges the President to include the Drug Czar as a regular member of the Cabinet. It is a request; a simple reminder to President Bush to abide by the intent of Congress. The Drug Czar was supposed to be a full member of the Cabinet. He should be. I urge my colleagues to support this resolution. The Drug Czar needs not just the backing and the ear of the President, but the ear of the other Cabinet members. That is best achieved when all are sitting in the Cabinet together.

Mr. KERRY. Mr. President, drugs are the No. 1 issue in this country.

Polls show that about 50 percent of all Americans say that they have had a relative or a close friend who has had a problem with illegal drugs, and one out of every three say that illicit drugs can be purchased within a mile of their home.

Some 20 million Americans smoke marijuana, nearly 6 million regularly use cocaine, and half a million are addicted to heroin.

Sixty percent of all illegal drugs in the world are used here in the United States.

The American market for drugs produces annual revenues of at least $100 billion at retail prices. This is twice what U.S. consumers spend for oil each year.

The street price for a kilo of cocaine is down from $60,000 in 1980 to as low as $8,000 to $10,000 a kilo today. This means that greater quantities of what was once the drug of the rich are within the price range of more and more Americans.

Between 1982 and 1985 the amount of cocaine seized coming into the United States more than doubled from 31 metric tons to 72.3 metric tons. The problem has reached such a magnitude that the various agencies involved in the war on drugs cannot come up with an accurate figure as to how much cocaine reaches the streets of our country today.

The crime rate last year in Washington, DC rose 15 percent. There have already been over 100 murders this year—most of them drug related. The Nation's Capital, democracy's capital, is fast becoming the drug capital and the murder capital.

All of this adds up to a serious threat to our national security.

The fact is we don't have a national drug policy in this country. And we haven't had one during the last 8 years when the need has been so obvious. We've had "just say no" but that is not a strategy—it's one single public relations effort. It's not the way to fight the war on drugs.

What we need is a comprehensive approach to combating the threat of drugs not only in this country, but throughout the hemisphere. That means increasing our efforts in law enforcement, interdiction, eradication, treatment and education. It also means coordinating our efforts in these areas.

In the past, there were 11 Cabinet departments and almost three dozen agencies involved in the drug war. No one was responsible. No one was accountable. No one was in charge.

Developing an antidrug strategy and then implementing that strategy is the job of the New National Director of Drug Policy.

Mr. President, I believe that Bill Bennett, President Bush's choice to be

the new drug czar, has the potential to lead this Nation's war on drugs.

While I didn't always agree with Secretary Bennett, I respected his candor and his ability to make himself heard on important issues. He will need those qualities and others to be successful in his new job.

I hope, for example, that Mr. Bennett will work closely with those of us in Congress who have been speaking out on the drug issue for so many years.

In the near future, the Subcommittee on Narcotics and Terrorism, which I chair, will release a major report on international narcotics trafficking. The report culminates a 2-year investigation in which the subcommittee held 11 days of hearings, interviewed scores of witnesses, and took dozens of depositions.

I hope Mr. Bennett will read the report closely, because I feel it lays out a disturbing story of nonfeasance, and at times, malfeasance on the part of our Government.

I also plan to introduce a legislative package to accompany the report. I look forward to having Mr. Bennett's comments on that initiative and to working with him on any other legislation in the area of international narcotics trafficking.

Illegal narcotics are exacting enormous social and economic costs in this country. And it's time we showed our resolve and our steadfastness to fight back. I believe Bill Bennett understands this and I am pleased to vote for his confirmation as this Nation's Director of Drug Policy.

Mr. DECONCINI. Mr. President, I rise today in support of the confirmation of Dr. William J. Bennett as the coordinator of National Drug Control Policy. For years I have battled the plague of illegal narcotics, first as a county lawyer in Arizona, and for the last 12 years as a U.S. Senator. Because of my interests in this problem, the individual nominated by President Bush to this position is of utmost importance to me. I believe that Dr. Bennett is a fine choice to be the Director of the National Drug Control Policy Program.

Mr. President, when I first arrived as a freshman Senator from Tucson, there were few subjects that I was more familiar with than law enforcement, and specifically drug related law enforcement. As Pima County attorney I helped establish both the Pima County Attorney's Border County Strike Force and the Arizona Drug Control District to coordinate law enforcement efforts in the war on drugs in Arizona. In those early days as Senator, much of my time in the Senate was devoted to law enforcement issues. In 1978, as a member of the Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, I called on the Government Accounting Office to prepare a report summarizing the problems existing in the area of drug interdiction. The GAO report, issued in 1979, placed heavy emphasis on the need for coordination of the efforts of different Federal, State, and local agencies by one executive branch official. As stated by the 1979 report:

> Perhaps more than any other type of law enforcement, drug enforcement cuts across all three levels of government—Federal, State and local. With many agencies performing similar activities across the country, it is essential that the role of the Federal versus State and local activities be clearly defined . . .
>
> If any improvement is to be made in coordinating Federal drug control efforts, someone is needed who has clear authority from the President to monitor activities and demand corrective actions.

Mr. President, following the publication of the GAO report, over 20 hours of hearings were conducted to consider the feasibility of creating an executive branch position to oversee a national effort to combat drugs. Using the information gained at these hearings and from the GAO study, I offered an amendment to the 1982 Violent Crime and Drug Enforcement Act to establish an Office of Director of National and International Drug Operations and Policy. The bill, including the DeConcini amendment was approved by both the House and Senate but was vetoed by President Reagan. President Reagan gave as his primary reason for vetoing the bill, the DeConcini provision creating the national drug coordinator.

In 1983, I joined Senator PELL in introducing legislation to create a national drug coordinator. That legislation was modified by the Judiciary Committee and became part of Public Law 99-473. That provisiosn created a national Drug Enforcement Policy Board headed by the Attorney General.

Finally, in the 100th Congress, I joined with many Senators in introducing legislation that would eventually create this national Director. After many, many hours of hard work by numerous Senators, especially Senator BIDEN, the chairman of the Senate Judiciary Committee, we now arrive at the day of reckoning. The Nation is at a crossroads. We have an opportunity to pull together, to unite for a cause important to every American. Only by each person committing to fight the war on drugs, and offering to lend support to a concerted, national effort coordinated by the new Director, can we, as a nation, take back the ground lost to illegal drug traders.

Yet, as the troops are marshalled for this organized effort, I think it is important to keep in mind the role that the President has to play for this national antidrug initiative to succeed. In the final analysis, it is President Bush who will have to be the Drug Czar. The President has taken an important first step by nominating someone with the background and qualifications of Dr. Bennett. However, that is not the end of the President's role in this fight. It is only the beginning. Through his determination and involvement, his support of Dr. Bennett and his strength of will, the President has an opportunity make real gains in the war on drugs.

Through his power as Chief Executive, the President must support the initiatives of Dr. Bennett, using the Executive order to give them the force of law when necessary, for Dr. Bennett's efforts to be successful. This legislation represents a new effort to fight the war on drugs from a unified front, with Congress, the executive and the judiciary working together. It is truly a hopeful moment in the history of our fight against the awful scourge of drugs. The President must remain actively involved in this fight in order for us to realize this opportunity.

During my questioning of Dr. Bennett before the Judiciary Committee, I told him that I felt the President had a crucial role to play in making the difficult decisions that will have to be made to carry this policy out. Dr. Bennett indicated to me that he understood this. The President has informed me that he intends to support Dr. Bennett in every way. These assurances are encouraging to me. I am hopeful that in the coming months, after Dr. Bennett has submitted his strategy, we will see these promises become a reality. It is with these assurances in mind, and with great hope for the future of our country in overcoming this national drug tragedy, that I rise to give my full support for the confirmation of Dr. William J. Bennett.

Thank you Mr. President.

Mr. DOLE. Mr. President, today we are taking a new turn in the Nation's efforts to combat drug abuse in the United States, the confirmation of the first Director of the Office of National Drug Control Policy.

Just months ago, the Senate overwhelmingly passed the Anti-Drug Abuse Act of 1988, which I had the privilege of sponsoring along with our former majority leader, Senator ROBERT BYRD, of West Virginia.

The Congress had conducted several debates over the merits of creating this position during the previous several years. I would like to commend my colleagues who persisted in crafting a workable and what we hope will be successful new position: Senators THURMOND, BIDEN, ROTH, and GLENN.

Bill Bennett has already served our country in many distinguished areas. As an educator at the University of Southern Mississippi, the University of Texas, Harvard University, Boston University, and the University of Wis-

consin, Bill Bennett knows our Nation's youth and how to inspire them to remain drug free.

Further, as Secretary of Education, he has the knowledge and experience to manage and formulate Government policies into meaningful and successful endeavors.

During his tenure as Secretary of Education, Bill Bennett did not always have the support of the majority in Congress, yet he pushed on, demanding better and forcing our educational institutions to provide the best for our students, not our institutions. I hope the same will be true of his efforts against drugs.

We can no longer afford infighting between Government agencies or drug education and treatment providers. Some heads need to be knocked, and I am sure Bill Bennett is the man for the job.

President Bush has, on numerous occasions, strongly voiced his support for Dr. Bennett and expressed his intention to fully support the antidrug coordination efforts of our Nation's first Director of National Drug Control Policy.

Mr. GRAHAM. Mr. President, I rise in support of the nomination of William J. Bennett to the position of Director of the Office of Drug Control Policy.

Last year, in the closing hours of the 100th Congress, we passed the Anti-Drug Abuse Act of 1988. One of the most important titles of the act created the Office of Drug Control Policy and required the President to appoint someone as Director of that office. The Director will be this country's Drug Czar—our strategist in the war on drugs. President Bush nominated Bill Bennett to fill that office.

The requirements of the Director as outlined in the 1988 act are daunting. He establishes policies, priorities, and objectives of the National Drug Control Program; he promulgates a national drug control strategy and budget; and he is the principal adviser to the National Security Council on drug policy. Mr. Bennett appears to fully understand the scope of his new office, and I am sure he takes each and every task we in Congress have designated to his position seriously.

Mr. Bennett's experience as the former Secretary of Education gives him a unique perspective on the demand reduction side of the antinarcotics equation. I count on that experience to help us develop strong educational and antiabuse programs.

Mr. Bennett's intellectual capabilities are well-known. I count on those capabilities to help us effectively evaluate our current programs and make intelligent decisions about which ones work and which ones don't.

And finally, Mr. Bennett's ability to use his public office as a preacher's pulpit to articulate important causes was widely recognized during his tenure as Secretary of Education. I count on him to use his position as Director of the Office of Drug Control Policy to emphasize and reemphasize the dangers of drug abuse, the costs of drug addiction, and the impossibility of stopping drug trafficking without stopping the demand for drugs.

Recently, I spent a day in two Jackson County schools participating in their drug education programs. Jackson County is a mostly rural area of Florida, the kind of place you'd least expect to have a drug problem. But they do, and the leaders of the communities of that county have come together to fight the problem. The people of Jackson County have dedicated their time and their resources. I think they have every right to look for help from the Federal Government to combat the drug problem which is so much larger than their community.

I use this example to point up the need for cooperation between the Congress, the President, and the Director if we're to succeed in delivering effective support to the Jackson Counties of America. I look forward to working with Bill Bennett. I want to make sure that we wage an effective, nonpartisan, and successful attack on drugs.

Mr. HEFLIN. Mr. President, today I am pleased to rise and speak on behalf of Dr. William Bennett, nominated to be the first Director of the Office of National Drug Control Policy. I have supported and cosponsored legislation creating this position because I believe that if we are truly going to declare war on drugs, we must have a commanding general who is not afraid to wage war on the front lines; we must have a strategy both on the international and domestic fronts; and we must make a commitment that drugs will no longer rule our society, corrupt our youth, and threaten our existence.

Right now in this country, we are losing the war on drugs. Drug traffickers peddle their wares not only in the large urban areas of our country, but also on the street corners of even our smallest communities. Drugs enter our country seemingly at will, pass down our streets and avenues, and leave a path of utter destruction and disbelief in their wake.

However, the battlefield is not limited to the streets. These traffickers have also entered our homes and schools. As a society we bear the responsibility of educating our children about the dangers of drug abuse. We must commit our resources to reduce the demand for drugs and to treat those who suffer from drug addiction. At the same time, we must intensify our efforts and destroy the supply of drugs coming into this country.

We must recognize that the drug business is big business, and the easy money is coming at America's expense. We must also recognize that we are fighting against an enemy that knows no bounds. This enemy has no conscience. This enemy has huge resources in terms of money and manpower. This enemy is cunning—and unfortunately, it appears that this enemy is winning.

Knowing the scope of our problems and the strength of our enemy, it is vital that we approach the drug problem in a comprehensive and coordinated fashion. Dr. Bennett will be responsible for developing a unified strategy; establishing policy, objectives, and priorities; and coordinating and overseeing the implementation of our Nation's drug control policy.

During the confirmation hearings, Dr. Bennett demonstrated an understanding of the need to mount an all-out assault on the drug problem. He indicated his willingness and desire to work with Congress and was very candid in his assessment of the tremendous task before him.

I admire anyone who is willing to accept this challenge, and make no mistake—it will be a challenge. This will indeed be a terribly difficult task. Attempted alone, it will be a blueprint for failure. If there has ever been a need to look beyond partisan politics, to look beyond the separate branches of government, and to look beyond divergent Federal and State interests—now is the time.

I would like to close with a quote from Gen. Omar Bradley, who made a distinction between battles and war. I believe his words eloquently express the task before us:

> Battles are won by the infantry, the armor, the artillery and air teams, by soldiers living in the rain and huddling in the snow. But wars are won by the great strength of a nation—the soldier and civilian working together.

This Nation must come together under the leadership of Dr. Bennett. The United States must demonstrate a unified front, a single-minded purpose, and an unfaltering dedication to the war on drugs. Dr. Bennett will be our leader. I am confident of his ability to lead us well and to lead us united.

Therefore, I urge my colleagues to join with me in supporting Dr. Bennett and urge them to vote in favor of this nomination.

Mr. WILSON. Mr. President, last summer and last fall, prior to the conclusion of the 100th Congress, the Senate spent hours and days crafting an omnibus drug bill that was the result of earnest bipartisan cooperation. It was the result of an effort to address what was I believe universally recognized to be the greatest threat to the well-being of this Nation that we have faced in recent history.

The drug threat we decided was something that had to be countered on many fronts. We had to beef up efforts at law enforcement, at educating

the young, at treating and attempting to rehabilitate those who had suffered addiction.

Mr. President, I am not going to take a great deal of time this afternoon to belabor the obvious. The circumstances that prompted what was a massive effort on behalf of the Senate and the House to create that legislation continue to exist. One of the elements of that legislation that we passed last year was to create a post that would have as its responsibility the coordination of all of the different Federal agencies involved in what we have termed a war on drugs.

The nomination by the President of William Bennett to fill that post is one that I applaud. I rise to support his nomination. I will not repeat what other Senators have placed in the RECORD about his eminent qualifications beyond saying this:

Bill Bennett has demonstrated most recently as the Secretary of Education that he is a man who cares passionately about the future of America, and cares passionately about the young people of this Nation. As someone whose virtually every waking hour was spent on improving education in this Nation, it is appropriate that his passion should be now directed to the threat that has wasted not just opportunity and talent, but indeed all too many lives, because he knows full well that it is in vain that we improve education, that we spend money, that we go to the lengths that in fact we should to ensure America will be competitive into the next century.

It is in vain that we do all those things, Mr. President, if in fact we do not make substantial progress toward winning this war on drugs. Bill Bennett is a man who has demonstrated beyond doubt, even to his detractors, that he cares, and that he cares enough, has exhibited sufficient determination to make the kind of inroads that will be required. I think he is a superb choice. He is not a man who suffers frustration with patience. I hope he will continue to be impatient.

One of the things which the Congress has not done, which we must do, if our effort last year is not to be regarded as rank hypocrisy, is to complete the necessary funding of that drug legislation. So I am sure that Senators who feel, as I believe all of them do, that we must be impatient to win the war on drugs, will, I think, join in applauding this nomination and supporting it and offering the kind of bipartisan cooperation that this problem will require.

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

Mr. WARNER. Mr. President, earlier today the Senate voted to confirm William J. Bennett as the President's Director of the Office of National Drug Control Policy. Unfortunately, I was not present for that vote. I would like to go on record that, had I been present for the vote, I would have voted in favor of Mr. Bennett's confirmation.

One need look no further than the front page of today's Washington Post to see the enormity and importance of the task facing Mr. Bennett and the Office of National Drug Control Policy. The article highlights the escalating drug-related crime and violence in this country.

A coordinated response to the blight of illegal drugs requires cooperation among all agencies in the Federal Government and between all levels of government—Federal, State, and local. This need was recognized in the anti-drug abuse law, Public Law 100-690, passed by the Congress and signed by the President last year which created the new Office of National Drug Control Policy.

Heading up this new Office will not be an easy task. I am confident, however, that William J. Bennett is the man for that task. His experience in education and in government makes him eminently qualified to take on the challenges presented by this new position.

Mr. President, I wish to offer him my support and cooperation in the task before him and wish him every success in his endeavor.

The PRESIDING OFFICER (Mr. LAUTENBERG). All time has expired. The question is, Will the Senate advise and consent to the nomination of William J. Bennett, of North Carolina, to be Director of National Drug Control Policy. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 21 Ex.]

YEAS—97

Adams	Domenici	Kohl
Armstrong	Durenberger	Lautenberg
Baucus	Exon	Leahy
Bentsen	Ford	Levin
Biden	Fowler	Lieberman
Bond	Garn	Lott
Boren	Glenn	Lugar
Boschwitz	Gore	Mack
Bradley	Gorton	Matsunaga
Breaux	Graham	McCain
Bryan	Gramm	McClure
Bumpers	Grassley	McConnell
Burdick	Harkin	Metzenbaum
Burns	Hatch	Mikulski
Byrd	Hatfield	Mitchell
Chafee	Heflin	Moynihan
Coats	Heinz	Murkowski
Cochran	Helms	Nickles
Cohen	Hollings	Nunn
Conrad	Humphrey	Packwood
Cranston	Inouye	Pell
D'Amato	Jeffords	Pressler
Danforth	Johnston	Pryor
Daschle	Kassebaum	Reid
DeConcini	Kasten	Riegle
Dixon	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dole	Kerry	Roth
Rudman	Simpson	Wallop
Sanford	Specter	Wilson
Sarbanes	Stevens	Wirth
Sasser	Symms	
Shelby	Thurmond	

NAYS—2

Bingaman Simon

NOT VOTING—1

Warner

So the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table. The President is notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business for up to 30 minutes with Senators permitted to speak therein for up to 5 minutes each.

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

The Senator from Hawaii is recognized.

(The remarks of Mr. MATSUNAGA pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, last year every 12½ days in the railroad industry, we had an accident in which either drugs or alcohol were involved. That is in the railroad industry. In the aviation industry, the Department of Transportation, inspector general, has reported that 10,300 certified airmen have had their drivers licenses suspended or revoked for driving while intoxicated during the past 7 years. In the motor carrier industry, a 1984 test of highway safety by the Insurance Institute for Highway Safety found that 30 percent of a random sample of truck drivers tested positive for drugs.

Accordingly, Mr. President, I send to the desk a bill that would require drug and alcohol testing in the commercial aviation, railroad, bus, and trucking industries. I send this bill to the desk on behalf of myself and Senator DANFORTH and 23 other cosponsors.

This is the identical bill, Mr. President, that Senator DANFORTH and I introduced 2 years ago. We debated the bill, passed it out of committee, and on the floor of the Senate it passed by a vote of 83 to 7.

Again, last year, our bill was included in the Senate master drug bill that

we have all alluded to, and it passed there without objection. I stayed up in the wee hours of the morning working, trying to get the House colleagues to accept this measure. I had been talking to them individually in the interim, and I am convinced that we are now making headway, and it looks like we can be successful in this Congress. We have had the help of Dr. Roger Horn, Safe Travel of America, and many other interested citizens that have come into the National Government, saying that this must stop.

The Secretary of Transportation, Secretary Burnley, was very farsighted in instituting rules and regulations in this area. However, No. 1, the regulations have already been contested as having been enacted without authority, and more particularly, they do not include alcohol testing, which our bill includes, not just drugs but also alcohol.

More than anything else, we want to set a national policy and not leave it to the whims of a Department of Transportation later on. This bill has national support. There is a tremendous national need. I am proud to associate myself with Senator DANFORTH and these other Senators in their dedication in this particular effort.

Mr. President, this legislation will provide the cornerstone for our efforts during the 101st Congress to improve the safety of the traveling public. This legislation is designed to help ensure the safe movement of passengers and goods in our commercial aviation, railroad, bus, and trucking industries. Right to the point, it requires drug and alcohol testing of critical safety-sensitive employees in these transportation industries.

I am pleased to be joined by our distinguished ranking member on the Commerce Committee, Senator DANFORTH, in sponsoring this legislation. Senator DANFORTH has been instrumental in demanding that this issue receive the attention it deserves. We are also fortunate to be joined in introducing this critical transportation safety legislation by Senators EXON, BREAUX, BURNS, GORTON, BOND, BOSCHWITZ, COATS, CHAFEE, D'AMATO, DECONCINI, DOLE, GRAMM, LOTT, LUGAR, MIKULSKI, MCCAIN, MCCONNELL, GRASSLEY, HELMS, SARBANES, WALLOP, WARNER, and WILSON.

Mr. President, our effort to require drug and alcohol testing programs for safety-sensitive transportation employees began 2 years ago, when 25 people tragically lost their lives in separate airline and rail passenger accidents. Specifically, in January 1987, 16 people died when an Amtrak passenger train collided with a Conrail engine in Chase, MD, while 9 people were killed when a Continental Express commuter aircraft crashed in the mountains near Durango, CO, 2 weeks later.

These accidents had one thing in common, other than the sudden, tragic loss of life to innocent passengers. Proof was established after each accident that the individuals involved, both the Conrail engineer and brakeman and the commuter airline pilots, had either been drinking alcohol on the job or had used cocaine, marijuana, or the hallucinogenic drug, PCP.

With these accidents, it became readily apparent to me, as chairman of the Commerce Committee, and others that the Federal Government had to increase its efforts to provide assurances of safe passage for the traveling public. Several hearings were held before the committee in which it quickly became clear that legislation was needed. Within weeks of the first hearing, legislation similar to that which we are introducing today was overwhelmingly approved by the Commerce Committee by a 19-to-1 margin.

This bill is identical to that legislation considered during the 100th Congress. The first Senate vote on that bill came in October 1987, when provisions mandating drug and alcohol testing for transportation workers were approved by an 83-to-7 margin as an amendment to an airline consumer protection bill. Later, continuing our efforts to ensure its enactment before adjournment of the 100th Congress, the Senate included these same drug and alcohol testing provisions in its version of the omnibus drug bill. That bill was subsequently passed and sent to the House of Representatives on a 87-to-3 vote.

Mr. President, let me emphasize that point as plainly as I can. The Senate has twice considered this critical safety legislation, and it has twice passed it by large majorities.

Unfortunately, our efforts toward final enactment of legislation mandating drug and alcohol testing legislation died in the waning hours of the 100th Congress, as conferees failed to reach agreement on the exact nature of the provisions. Yet, our resolve in the 101st Congress is greater than ever. The safety of the traveling public demands nothing less than enactment of drug and alcohol testing legislation this time around.

We must act because the problem of drug and alcohol abuse continues to worsen. Last year alone, there were 29 rail accidents in which the employees responsible for the safe operation of those trains tested positively for either drugs or alcohol. Eight rail employees died in these accidents, and another 41 were injured. Mr. President, that translates into one rail accident involving the illegal use of drugs or alcohol every 12½ days.

Some may question our intent in sponsoring legislation directing the Department of Transportation to establish regulations requiring drug testing, when, in fact, those rules are now in place, having been finalized last November. There are very serious public policy reasons why legislation is still needed. First, the rules issued by DOT lack the statutory backing that regulations of this importance should have. Without having such statutory direction, the existing drug testing rules are therefore subject to the whimsical interpretations and revisions of future administrations.

Second, but perhaps more importantly, the DOT rules now in place ignore testing for alcohol abuse by safety-sensitive transportation employees, which has been established by committee hearings to be a significant problem. The magnitude of this problem is illustrated by a recent Transportation Department inspector general report which found that 10,300 FAA certified airmen have had their auto licenses suspended or revoked within the past 7 years for driving while intoxicated. Alcohol has also been present in several recent rail accidents, including a January 1988 accident in California in which a road foreman was killed and two others injured. We simply cannot turn our backs on a problem so potentially dangerous and life threatening to the hundreds of millions Americans who use public conveyances every year.

Before concluding, Mr. President, I would like to summarize briefly the major provisions of this legislation. Our bill mandates testing for both the use of illegal drugs and alcohol abuse by certain classes of safety-sensitive transportation workers, such as airline pilots, air traffic controllers, railroad engineers and brakemen, and commercial bus and truck drivers, as well as others. The bill mandates five types of drug and alcohol testing, including random, preemployment, postaccident, periodic, and reasonable suspicion. In an effort to ensure protection of individual rights, the bill specifically incorporates Department of Health and Human Services guidelines establishing laboratory accuracy, as well as protections for individual privacy and innocent employees. Finally, the bill requires carriers to establish rehabilitation programs for employees who voluntarily step forward to seek help.

The key component to our legislation is random testing, which provides the deterrence needed to stop drug and alcohol abuse. The threat of unannounced, random tests provides the only effective assurance that safety-sensitive transportation employees will abstain from mind-numbing drugs and alcohol. Experience bears this out, as random testing in the military, Coast Guard, and private industry has resulted in the declining use of illegal drugs and alcohol abuse.

Mr. President, it is critical that we take every step possible to improve transportation safety. Enactment of

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this drug and alcohol testing legislation will significantly enhance the safety of the traveling public. It should be favorably considered by the Congress and signed into law as expeditiously as possible.

Mr. President, I urge my colleagues to join us in supporting this safety legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

Mr. DANFORTH. Mr. President, this is exactly the same bill that passed the Senate on a rollcall vote of 83 to 7, I believe, in the 100th Congress. It is exactly the same bill that was included as part of the omnibus drug bill passed last year in the Senate. It has twice passed the Senate.

In a nonbinding test vote in the House last year this concept was approved by a vote of 377 to 27. So it has been overwhelmingly and repeatedly supported in the Senate. It has been overwhelmingly supported in the House. But the leadership of the relevant committees in the House have succeeded in stripping it off of the drug bill and keeping it off of the legislation.

Now, Mr. President, as Senator HOLLINGS has pointed out, time and time again, something like every 10 or 11 days, there is a rail accident where subsequent tests show that drugs have been used. We had a story in the newspapers a day or 2 ago about the results of drug testing in the Federal Government, including the FAA.

After the tragic Amtrak, Conrail disaster of 2 years ago January, we had a hearing in the Commerce Committee, in which the engineer and the brakeman from the Conrail locomotive testified. They had both been smoking marijuana on the train. They testified about the prevalence of drug and alcohol abuse on the job in the railroads. They said that 10 years ago it was even worse than it is now, and the lowest figure that one of them gave for drug and alcohol abuse on the railroads was 10 to 20 percent down. They further testified that if we want a successful program against drug and alcohol abuse on the railroads, random testing is the one essential component.

Mr. President, if we want to control drug and alcohol use in transportation, random testing is absolutely essential. This issue is not going to go away. Senator HOLLINGS and I are going to be pressing it as hard as we can, for as long as it takes to get this written into law. The distinguished Presiding Officer has been very active in this area. Citizen groups are mobilizing behind it, and it will become law.

Mr. President, this life-savings measure did not become law last year. We urge the Senate to seek early enactment in the 101st Congrss for three reasons:

First, drug and alcohol testing of critical transportation workers is too important to be left to the policymaking whims of a future adminstration—it needs to be the law.

Second, the new drug testing rules issued by the Department of Transportation last November do not include testing for alcohol.

Third, Congress needs to send a clear message to the executive branch and the courts—we simply will not tolerate substance abusers in public transportation.

A troubling aspect of the new DOT rules is the omission of testing for alcohol abuse, even though the FRA has successfully tested for both alcohol and drugs for 2 years. The fact is, alcohol is a mind-altering drug that can quickly destroy both mental and motor skills.

Since the FRA's 1986 testing rule does require postaccident drug and alcohol testing, we know that in 1988, alone, there were 29 railroad accidents involving either drugs or alcohol. Eight railroad employees were killed in those accidents, at least another 41 railroad employees were injured. Five of these drug or alcohol-related accidents occurred after the 100th Congress adjourned.

Every day, the death toll from drug and alcohol abuse in the air, on our highways, and on the rails continues to rise.

Consider the following:

AVIATION

In February 1987, the inspector general of DOT reported that the driver's licenses of 10,300 active pilots certified by the Federal Aviation Administration had been suspended or revoked for driving while intoxicated.

On February 1, 1989, the National Transportation Safety Board [NTSB] ruled that one cause of the January 1988 crash of a commuter plane near Durango, CO, was the pilot's cocaine use. Nine people died in that crash.

Since the DOT started its own employee testing program in September 1987, 81 FAA employees have tested positive for drug abuse—60 of these were air traffic controllers.

MOTOR CARRIERS

In 1986, the Insurance Institute for Highway Safety study of 300 truck drivers conducted at a Tennessee truck stop found that 30 percent of the drivers tested positive for drugs that could affect their driving performance. The truck drivers had volunteered to be tested.

A 1987 investigation of California truck stops resulted in drug arrests of 130 people, including 26 drivers of the huge tractor-trailer rigs that share our highways.

Last July, a Gray Line bus driver was arrested for drug use after veering off the road into a grove of trees beside the Garden State Parkway near Egg Harbor, NJ. Three of the forty-three passengers—who were part of a church group—were seriously injured.

Over the past 3 years, the NTSB has conducted a study of 189 tractor-trailer accidents, a number of which involved alcohol or drug use. These accidents include the following:

On April 1, 1986, in Dumas, AR, a tractor-trailer driver failed to brake for a passenger car in front of him that was slowing down to turn off the highway. The 24-ton truck smashed into the back of the car, instantly killing all 5 occupants. The NTSB report notes that the driver's blood alcohol content was over the legal limit and that he had a previous record for driving while intoxicated.

That same month, a truckdriver in Chino, CA, ignored a red light signal and crashed into two passenger cars. The collision killed the driver of one of the cars and injured a passenger in the truck. Police found a pipe used for smoking marijuana in the cab of the truck. In addition, a blood analysis revealed a BAC level of 0.21 percent—twice the then existing legal limit of 0.10 percent. That is five times the newly established BAC limit of 0.04 for commercial drivers.

On March 7, 1987, in Diamond Bar, CA, a tractor-trailer driver set off a series of collisions by failing to stop for traffic backed up from a previous accident; 15 persons were injured and 2 were killed. In addition to having a BAC level of 0.15 at the time of the accident, the driver was experiencing withdrawal symptoms from his self-confessed heroin addiction.

In June of 1987, NTSB investigators studied an accident in which a tractor-trailer collided with a passenger train, causing a derailment and injuring 28 rail passengers. The coroner's examination of the truckdriver found his blood alcohol level at 2½ times that allowed by law.

Mr. President, DOT has taken the first step toward eliminating the two-fold threat to safe transportation by issuing its drug testing rule. It is up to us to finish the job. I urge my colleagues to join us in support of legislation requiring both drug and alcohol testing of safety-sensitive transportation employees.

CAMPAIGN FINANCING

Mr. McCONNELL. Mr. President, on the subject of campaign finance, the Washington Post recently carried an article on fund raising activity by incumbents up in 1990 and 1992. The article points out that many Senators are getting an early start on raising money for their next election.

I would argue, Mr. President, that is a good thing, not a bad thing. As I have said before, fund raising is not a large burden, if you do not wait until the last minute to do it.

Those Senators who are starting early will be saved from last-minute

rushes that might interfere with their official responsibilities.

Another interesting point the article illustrates is that the claims we hear ad nauseum about Senators having to raise $10,000 a week to be competitive are completely and totally false.

According to the Post's figures, the 34 Senators who are up in 1990 have raised a total of $12.7 million. That averages out to approximately $374,000 raised by each Senator over the last 4 years. Dividing that out, we find that—on average—each Senator up in 1990 raised $1,792 per week in the last 4 years.

They did not raise $10,000 per week, as is often claimed. They did not even raise that much in a month. In fact, two Senators up in 1990 have not raised that much yet—after 4 years and only 5 out of the 34 Senators up in 1990 have raised over $500,000—15 percent.

In the last year before an election, when the race heats up, then people start contributing more and candidates can build up the fuel they need for the drive to the finish line.

Now, some far-sighted candidates will have started early, like many of the Senators mentioned in the article in the Post. They will not have to work quite as hard at raising funds later on, because they prepared early. But none of these candidates have been forced to raise $10,000 a week in order to have a shot at winning.

So let us put that ridiculous falsehood to rest once and for all. We should not hear that any more on the floor of the Senate.

Mr. President, I ask unanimous consent that that article in the Post be printed in the RECORD.

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

[From the Washington Post, Mar. 7, 1989]

FILLING POLITICAL WAR CHESTS: A PROCESS THAT NEVER ENDS

(By Charles R. Babcock)

Sen. Arlen Specter (R-Pa.) threw a birthday party for himself last month at his Georgetown apartment. Lobbyists, friends and other supporters were invited. Although no one sang "Happy Birthday," there was a cake—a gift from Sears, Roebuck and Co.—and about 70 people turned out, most with a present of a $1,000 contribution to Specter's reelection committee.

Sen. Wyche Fowler Jr. (D-Ga.) has more elaborate entertainment planned for his contributors. He is sponsoring a theater weekend in New York March 17-19. The $995 donation to his campaign committee covers round-trip air fare from Atlanta or Washington, two nights of "deluxe accommodations" at the Inter-Continental Hotel, a pre-theater cocktail buffet at Sardi's restaurant and $50 tickets to the musical "Jerome Robbins' Broadway."

Neither incumbent faces reelection until 1992.

The escalating cost of elections, however, has made raising political money a never-ending process in Washington. The average Senate campaign in 1988 cost about $4 million, which means incumbents have to raise about $13,000 every week of their six-year terms.

Washington lobbyists are a constant target of political fund-raisers. One Democratic lobbyist said he gets several invitations a day and during the last election cycle wrote at least one check to a candidate in 23 of 24 months.

A review of Federal Election Commission records shows that of the 34 members of the Senate up for reelection in 1990, Phil Gramm (R-Tex.) had the most cash on hand at the end of 1988, $2.3 million. Close behind was Bill Bradley (D-N.J.) with $2.2 million, followed by J. Bennett Johnston (D-La.) with $1.8 million, Mitch McConnell (R-Ky.) with $1.2 million and Howell T. Heflin (D-Ala.), with $818,000. No other incumbent of either party had as much as $500,000 in the bank. Eleven had less than $100,000.

Dan McKenna, Specter's spokesman, said the birthday party was "an effort to get started early" for 1992. It was Specter's first birthday theme fund-raiser and is expected to raise as much as $70,000, he added. "I'm sure it was mainly lobbyists," McKenna said when asked who attended the affair.

Norm Magnuson, a Sears spokesman here, said the company sends each member of the House and Senate a cake on his or her birthday. A Sears lobbyist was invited to the party, but did not attend, he added.

Fowler's flashy white-on-black Broadway weekend invitation has caught the eye of several lobbyists. Bill Johnstone, Fowler's top aide and campaign manager, said the theater weekend is an unusually high-cost fund raiser, with the campaign expecting to net only about $500 from each person who flies in from Atlanta and about $700 from each Washington guest, many of whom are lobbyists.

"We in theory are going to be clearing $100,000," Johnstone said. Fowler's 1986 race in Georgia cost about $3 million, Johnstone said, but he figures it will take $6.5 million to run the same campaign in 1992, largely because of escalating costs of television advertising.

Sen. Lloyd Bentsen (D-Tex.) is not up for reelection until 1994, but is raising more than $150,000 without an event by asking longtime donors to help erase a debt from his reelection campaign last year.

Bentsen spent more than $8 million last fall in winning reelection and trying to win his home state for the Democratic ticket he shared with Massachusetts Gov. Michael S. Dukakis. His staff has been out soliciting and at least a few Washington lobbyists have been asked to raise or donate $10,000.

Bentsen's office is sensitive about the $10,000 figure. Jack DeVore, Bentsen's spokesman, was quick to dispute the idea that Bentsen was systematically trying to raise funds in such large chunks. Bentsen, chairman of the Senate Finance Committee, was embarrassed two years ago when it was disclosed he charged lobbyists $10,000 to join a monthly breakfast club to hear his views. He subsequently dropped the breakfast club idea.

DeVore said supporters are being asked "to give what they can," with the goal of erasing the $118,000 debt and raising $150,000 for future political expenses. He emphasized that this early request for funds is not a return of the breakfast club without the breakfast.

The constant need for big money has spawned a growth industry of professional fund-raisers, including some who specialize in soliciting political action committees and others who set up large dinners. It also drives such fund-raising gimmicks as the birthday party and the theater party, both of which were pioneered long before Specter or Fowler sent out their invitations.

Rep. Richard A. Gephardt (D-Mo.) had his birthday party Jan. 31, with cake, candles (48) and singing. Tickets were $250, said Boyd Lewis, his fund-raiser. The event raised about $100,000. Sen. Alan K. Simpson (R-Wyo.) had his first Broadway fund-raiser in 1984, said spokeswoman Mary Kay Hill. Last April, Simpson raised about $150,000 by offering 200 donors hard-to-get tickets to "The Phantom of the Opera." Unlike Fowler, Simpson did not include transportation or lodging.

One senator up for reelection in 1990, Tom Harkin (D-Iowa), held one of the season's first fund-raisers on Dec. 1, just after the last election. The event was a breakfast buffet at the City Club of Washington, cost $1,000 to attend and raised about $100,000, according to Harkin's chief aide, Don Foley. "You can't start too early," he said.

Gramm caused a stir in Texas circles during the Bush inauguration by using tickets to the Texas Society's bipartisan Black Tie and Boots Ball in a package for his top contributors. Brad O'Leary, Gramm's fund-raiser, told reporters at the time that he hoped the package would clear between $100,000 and $150,000.

John F. Kerry (D-Mass.), who was busy raising money for colleagues as head of the Democratic Senatorial Campaign Committee the last two years, had only $5,000 in the bank at year's end, least of the Democratic incumbents up for reelection in 1990. But Kerry is raising funds aggressively now with the goal of having $1 million in the bank by June, spokesman Larry Carpman said. He raised $100,000 at a recent fund-raiser at Pamela Harriman's Washington home and expects to clear at least that much from a fund-raiser in Boston.

Jesse Helms (R-N.C.), who spent nearly $17 million to win reelection in 1984, had only $40,000 in his campaign account at the end of 1988. Carter Wrenn, a Helms campaign aide, said the campaign committee is now actively raising funds and a direct mail campaign already has signed up 20,000 people pledged to donate $10 a month. The goal is 50,000 donors and $6 million, Wrenn said.

John D. (Jay) Rockefeller IV (D-W.Va.), who spent $12 million—nearly $9 million of it his money—to win his first term, hopes to run for reelection without dipping into personal funds. His spokesman, Brian Detter, acknowledges that it will not be easy for a Rockefeller to convince some people he needs their money.

"Obviously, raising money when your name is Rockefeller is slight hindrance because people know you can use your own money," Detter said. But he said the senator received commitments of $1.9 million from supporters he invited to his Washington home in mid-December. A recent Washington Post story, picked up by West Virginia papers, reported that Rockefeller refinanced his home for $15.3 million. Under conventional loan terms, his monthly payment might be $134,000—double the median cost of a house in Charleston, the state capital.

John W. Warner (R-Va.), who had only $24,000 in the bank at the end of last year, said through a spokesman that he had not held fund-raisers during the past two years

because he did not want to drain money from the GOP campaign of Maurice A. Dawkins, who ran unsuccessfully against Charles S. Robb (D) for the Senate.

As the fund-raising season begins to heat up, lobbyists still recall a tale about McConnell's foresight. Just after he upset incumbent Democrat Walter (Dee) Huddleston in 1984, McConnell was approached by special interest groups who supported Huddleston, offering to help retire the winner's debt. According to one lobbyist, McConnell, who had not been sworn in yet, said he was not in debt. But he was quite willing to accept the funds—for his 1990 race.

THE SENATE WAR CHESTS FOR 1990: CASH ON HAND

[Money available Dec. 31, 1988, for incumbents up in 1990]

State	Senator	Cash on hand
Alaska	Ted Stevens (R)	$128,000
Alabama	Howell T. Heflin (D)	818,000
Arkansas	David H. Pryor (D)	145,000
Colorado	William L. Armstrong (R)	40,000
Delaware	Joseph R. Biden, Jr. (D)	183,000
Georgia	Sam Nunn (D)	454,000
Idaho	James A. McClure (R)	186,000
Illinois	Paul Simon (D)	38,000
Indiana	Dan Coats (R)	233,000
Iowa	Tom Harkin (D)	339,000
Kansas	Nancy L. Kassebaum (R)	143,000
Kentucky	Mitch McConnell (R)	1,191,000
Louisiana	J. Bennett Johnston (D)	1,768,000
Massachusetts	John F. Kerry (D)	5,000
Maine	William S. Cohen (R)	138,000
Michigan	Carl Levin (D)	184,000
Minnesota	Rudy Boschwitz (R)	214,000
Mississippi	Thad Cochran (R)	158,000
Montana	Max Baucus (D)	214,000
Nebraska	J. James Exon (D)	19,000
New Hampshire	Gordon J. Humphrey (R)	4,000
New Jersey	Bill Bradley (D)	2,178,000
New Mexico	Pete V. Dominici (R)	33,000
North Carolina	Jesse Helms (R)	40,000
Oklahoma	David L. Boren (D)	277,000
Oregon	Mark O. Hatfield (R)	161,000
Rhode Island	Claiborne Pell (D)	428,000
South Carolina	Strom Thurmond (R)	61,000
South Dakota	Larry Pressler (R)	238,000
Tennessee	Albert Gore, Jr. (D)	97,000
Texas	Phil Gramm (R)	2,320,000
Virginia	John W. Warner (R)	24,000
West Virginia	John D. (Jay) Rockefeller IV (D)	73,000
Wyoming	Alan K. Simpson (R)	179,000

NOTE: Numbers are rounded to the nearest thousand after subtracting debts, except for Sen. Warner, who owes $400,000 to himself from the 1978 election. Sen. Armstrong and Sen. Humphrey will not seek reelection. Dan Coats of Indiana was appointed to take over the seat of Vice President Quayle. That seat is up in 1992.

Mr. McCONNELL. One further observation, Mr. President, on the same subject, the latest figures, from the 1988 Senate elections confirm what we have been saying for a long time about spending limits: That they are a uniquely effective incumbent protection device, pursued by the majority party in this body in order to keep it the majority party.

In connection with this point, the statistics prove that the ability to spend without any limit is far more important to challengers than it is to incumbents.

Looking at the recently completed 1988 Senate elections: nearly 90 percent of the incumbents who spent under the limits set by S. 137—that is the bill of the majority party here—won their race, 16 out of 19 incumbents. By comparison, of the 19 challengers who spent under the limits set in S. 137, 95 percent lost the race, 18 out of 19 challengers.

Clearly, 85 percent of the incumbents who spent over the S. 137 limits won a lower winning percentage than for incumbents who spent below the limits.

But for challengers, the ability to spend above the limits was decisive: compared to a 5 percent chance winning record for challengers who spent below the limits, 38 percent of the challengers who spent above the limits set by S. 137 were able to defeat the incumbent.

Now, only one of the challengers who defeated an incumbent in 1988 actually outspent the incumbent, but 75 percent of the challengers who won had to spend above the S. 137 limits to do it, 3 out of 4 challengers who won.

So, if we enact the spending limits contained in S. 137: these figures from the last election show that challengers will have a mere 5 percent chance of unseating an incumbent in the future; whereas, without the limits, challengers at least have about a 40 percent chance of winning in the Senate.

I cannot conceive of a more effective and deliberate incumbent protection strategy than the spending limits in S. 137.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. 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 GREAT FSX GIVEAWAY—BAMBOOZLED AGAIN

Mr. DIXON. Mr. President, I come before this body today to warn the Nation once again that we are about to be bamboozled in a sale of valuable American technology to our fiercest trade competitor, who will use this technology to develop export industries that will compete against U.S. companies and threaten American workers. I am talking, of course, about the sale of the F-16 fighter technology to Japan as proposed in the United States-Japanese Fighter Codevelopment Program, commonly referred to as the FSX Program.

As you know, Mr. President, the FSX Program calls for Japan and ourselves to jointly develop a new fighter using General Dynamic's F-16 fighter aircraft as a starting point. Following development, the plan calls for both countries to coproduce approximately 130 fighters beginning in the midnineties. When deployed, this advanced fighter will help provide for our mutual security needs. Sounds reasonable, does it not? It is not.

For the Japanese, the heart of this program is not defense, but the development of an aerospace industry capable of competing in the world marketplace. The Japanese are not capable of doing that now because they do not possess the technology or knowledge needed to build high-performance jet aircraft. But as in so many other industries—such as VCR's and semiconductors—the Japanese know where to get the technology and knowledge: From the good old U.S.A. What has been the consequence? America provides this technology and knowledge to the Japanese and promptly suffers a loss of United States leadership in several industries, and the loss of hundreds of thousands of good-paying American jobs. The Japanese have managed to do this in large measure because since the end of World War II their economic growth has been fostered by the conventional and nuclear defense protection given them by the United States. We have just recently helped protect Japan by assuring the free flow of oil through the Persian Gulf.

On the economic side, what we have gotten in return for our expertise and willingness to promote free-trade is a Japanese reluctance to share technology or open their markets to United States products, and a huge trade deficit, of $54 billion. That $54 billion figure does not include what we spend in depending Japan.

Now the FSX deal comes along, and we are on the verge of shooting ourselves in the foot again by giving Japan a shot in the arm that will help it develop a government-supported industry that will aggressively—and often unfairly—compete against American firms.

This FSX deal, Mr. President, is not a good deal. It is a No. 1 bamboozle. The Japanese have approached this program from an economic perspective, while we negotiated from a defense and foreign relations perspective. The Japanese want an aerospace industry. They have a huge pool of young engineers who will greatly benefit from the FSX Program and who will become the designers and developers of future Japanese commercial and military aircraft. In 1984, the Japanese space and development policy called for autonomy in commercial aviation. The Government Accounting Office, in a 1982 report, said the key objectives of Japan in entering coproduction programs with United States defense companies are to enhance their high technology employment base to develop future export industry and to increase their military self-sufficiency.

On the other hand, during the FSX negotiations, we Americans have virtually ignored the long-term economic aspects of this deal. Indeed, our Commerce Department was not consulted, while Japan's ministry of International Trade and Industry was extensively involved in the FSX negotiations. De-

spite legislation passed by my good friend Senator JEFF BINGAMAN, calling for consultation with the Commerce Department during the negotiation process, the Defense and State Departments instead concentrated on their own narrow interests.

Now I understand that the Defense Department is still unwilling to listen. Although the Washington Post, the New York Times and others reported that a modified FSX agreement to limit technology transfers and increase Commerce's role was reached this past weekend between Defense and Commerce, the Defense Department backed away from the agreement. The Defense Department is still reluctant to acknowledge the critical role that Commerce has to play or the potential damage that this FSX agreement could have on our aerospace industry.

Can we not learn from our past mistakes? Japan's Miti—their Commerce Department—sets policy for both military and civil aircraft production. Our attempts to limit technological loss to Japan on the F-15 sale have been useless. The GAO found that our Air Force presented a list of technologies considered too sensitive to be transferred to Japan because of the danger of their falling into the hands of the Soviets. But, because of Japanese objections, the United States Defense Security Assistance Agency released much of the technology. By the way, Mr. President, Toshiba in Japan will be working on the FSX development, and we know how well they work with the Soviets.

To add insult to injury, Mr. President, I have seen a Detroit news story that says Mitsubishi heavy industries, the intended recipient of our F-16 technology, has installed equipment that enables Libya to make poison gas bombs. This installation, the story says, has occurred at the chemical complex south of Tripoli, Libya, and has resulted in the stockpiling of hundreds of poison gas bombs. If this story is true, should we be selling military technology to a firm that has helped Libya build bombs that could be used against United States forces or our allies, such as Israel? What is next? Will Mitsubishi, using our advanced technology, show the Libyans how to build planes to fly against our forces in the Gulf of Sidra.

When are we going to give equal weight to our own economic interest when we negotiate these agreements? Our security concerns in the Far East are important, but a $50 billion plus trade deficit with Japan each year cannot be sustained indefinitely. I do not blame our Defense Department for not wanting to rely on Japanese fighter planes, because they would not be as reliable as the FSX or F-16 fighters. Japanese fighters would put our forces at greater risk. But why can we not convince Japan, touted as a strong United States ally, to buy F-16 fighters? Such a purchase will reduce our trade deficit now and protect our trading position in the future, while still giving both of our countries the protection we need in the Far East.

Rather than capitulating in our negotiations, we should be pressing the Japanese to accept our comparative advantage in aerospace and to recognize their responsibility to reduce their large trade surplus with us and other countries. These surpluses cause economic imbalances and threaten world economic security. As an economic superpower, the Japanese must share a greater burden in maintaining international economic order. The post-war era is over and it is a great success story. America and many countries have benefited from their success, few as spectacularly as Japan.

What am I suggesting, Mr. President? The Japanese could begin providing for their own defense by buying American F-16 fighter aircraft outright. This would signal to the world that they are willing to fine tune, rather than expand, their export-driven economy. But instead, they desire to spend $40 to $50 million for each FSX fighter, instead of $20 million for an F-16, in order to build an aerospace industry to compete in the world market.

I believe that the Japanese position is clear. Our own position is not at all clear. What are we getting out of this deal that an outright buy of battle-proven F-16 high performance aircraft would not give us? Absolutely nothing. We are told we will be getting advanced Japanese radar and composite manufacturing technology, but no one has been able to confirm that it even exists. Do we really believe that the Japanese will provide us with their technology? History, Mr. President, does not support this. Why should we believe that the Japanese have these technologies? They have never built a high-performance jet aircraft, and they cannot even build their own engine for the FSX fighter. If they could, you can bet your bottom dollar they would.

In contrast, we Americans annually build hundreds of the world's best commercial and military jet aircraft, and spend billions of dollars on Stealth technology and advanced tactical fighter technology. I have in my hand composite material developed by U.S. companies for the advanced tactical fighter, and I am told it is superior to anything that the Japanese could possibly possess. It is difficult for me to believe that the Japanese have anything worth trading this American-made material for that warrants risking our future aerospace competitiveness.

Our dealings with Japan have been a one way street. Just one example of many comes to mind. During the sale of the F-15, the Japanese wanted the technical data on the plane's speed brake. The Air Force wanted to protect the carbon composite technology of the speed brakes and opposed any transfer, but was overruled by the Secretary of Defense. According to Mr. Clyde Prestowitz, Jr., in his recent book "Trading Places," Japanese executives acknowledged that this technology was very valuable in developing several of their commercial products.

In negotiating this FSX proposal, I am afraid we have forgotten the lessons we have learned from our past commercial dealings with the Japanese. They often do not honor their agreements, as in the semiconductor industry, where they pledged to open their market 2 years ago, but have not. They target certain industries for export growth and put substantial support behind those industries, while making it difficult for importers to penetrate their markets. The Japanese have been so effective with these methods that our new U.S. Trade Representative is talking about "managed trade" with the Japanese to correct the massive trade imbalance we have with them. With trading conditions as they are, it seems ludicrous that we would help the Japanese build an aerospace industry that will only make trade competition worse than it is.

Are we doomed to make the same mistakes we made in the sale of the F-15? Will we have the GAO tell us once again that we have been taken to the cleaners by the Japanese? It is time, my friends, that we start telling the Japanese to buy American if they want their economic growth to continue. Maybe it is time to play a little hard ball, and let them know that if they want continued access to our markets, then we want them to start buying our fighter planes off the shelf.

If we let this deal go through with the Japanese, how are we going to say no to another Department of Defense and State Department attack on American workers? I am speaking about another bad deal in the works—which involves the South Koreans, who are also running a large trade surplus with the United States. The Koreans want to coproduce approximately 120 United States fighter planes and our negotiators are giving them far too much of what they want. Again, defense and foreign relations aspects are overshadowing our economic interest. The Koreans have a trade surplus. According to our Treasury Secretary last fall, they manipulate their currency to obtain favorable trading conditions, and yet we now want to teach them to build an aerospace industry that will compete against American firms later on.

Finally, Mr. President, it seems to me that this FSX codevelopment program, will boost Japan's ability to develop an aerospace industry that will strongly—and given current practices, often unfairly—compete against American aerospace firms in the future. Rather than recognize our comparative advantage in this field, and buy a battle-proven fighter, Japan will again concentrate its considerable resources to capture a huge portion of a world market now dominated by the United States.

In my view, Congress cannot allow this to happen. Although the administration, as a result of congressional opposition to the FSX program as curently proposed, is attempting to fine-tune the agreement. Fine-tuning is not what is needed. Instead, we should scrap this agreement. We should go back to the negotiating table, and begin to make our case for a Japanese purchase of F-16's or another American-built fighter aircraft.

I oppose the agreement because this whole FSX episode reminds me, Mr. President, of the slick huckster in Illinois who was trying to sell two milking machines to a farmer with only one cow, and then take the cow as a down payment.

In this case, however, it is not just the cow the Japanese are after. They want us to give away the whole farm. If it is all the same to the administration negotiators, Mr. President, we in Illinois have serious objections to giving away the farm in return for a piece of paper.

We prefer to sell the hogs and the cattle and the corn and the soybeans and all the other things we produce on our farms, rather than give the farms themselves away. Once we sell the means of production, everything is gone; we are out of business. If we give away the farm on the FSX deal, Mr. President, then we lose the capacity to produce anything to sell at all.

As an alternative, I suggest that our negotiators take the following steps:

First, let us include the Department of Commerce to the full extent Congress intended.

Next, let us keep our F-16 technology under our control.

Third, let us sell our planes outright to the Japanese.

Finally, let us keep our first place ranking in the aircraft industry by not giving away our competitive edge.

In short, Mr. President, let us keep the cow, and sell the Japanese the milking machines.

Mr. President, I ask unanimous consent that the Detroit News story be printed in the RECORD.

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

[From the Detroit (MI) News, Mar. 8, 1989]

JAPANESE FIRM TIED TO LIBYA GAS PLANT

(By John E. Peterson)

WASHINGTON.—Japan's leading aerospace firm has installed equipment that enables Libya to make poison gas bombs at a chemical complex in the desert south of Tripoli, Defense Department and congressional sources have told The Detroit News.

Sources said the CIA, in a closed-door briefing last Wednesday for the Senate Foreign Relations Committee, revealed that Mitsubishi Heavy Industries has a team of about 50 technicians and engineers at the complex. The sources spoke on condition they not be identified.

The Japanese technical experts installed metal-machining equipment used to make bomb canisters that contain the poison gases, the sources said, and the CIA contends the equipment has enabled Libya to stockpile hundreds of poison gas bombs.

Calls for comment to Mitsubishi Heavy Industries representation in the United States were referred to Tokyo officials, who could not be reached Tuesday. The CIA also told the committee that Intek, a West German company, sold air-to-air refueling equipment to Libya and trained more than three-dozen Libyan flight crews to use it. The equipment and training could for the first time allow Libyan bombers to fly round-trip to Israel.

The CIA and other Western intelligence agencies fear the Libyan gas bombs and refueling capacity endanger Israel to such a degree that the balance of power in the Middle East could be altered.

Senators on the Foreign Relations subcommittee declined to comment, saying the briefings were intended to be secret. However, several indicated privately that there could be political repercussions.

Mitsubishi Heavy Industries' involvement in Libyan gas bomb production may spur moves to block a plan for General Dynamics to provide the company with designs to build an advanced "FSX" fighter plane modeled on U.S. F-17 fighters.

The joint venture was negotiated by the Pentagon last year and is under review by the Bush administration.

The Detroit News reported in September that another Japanese company, Japan Steel Works, erected the building that houses the production line for poison gas canisters. Japan Steel Works initially denied the story, then admitted it built the plant, but said it was intended to remove salt from sea water.

The CIA is skeptical of the claim; the plant is near Rabta, about 65 miles southwest of Tripoli and about 70 miles from the Gulf of Sidra, the nearest body of salt water.

The CIA reports indicate that Mitsubishi Heavy Industries is working inside the plant built by Japan Steel Works.

Mitsubishi Heavy Industries is one of several large Japanese companies that use the Mitsubishi name. While they cooperate, share heritage and exchange technology, they legally are independent of one another.

The bomb plant reports have implicated two other Japanese firms. Sources said the CIA disclosed that Mitsubishi Heavy Industries' involvement in the project was arranged by Mitsubishi Shoji, the world's largest trading company, and C. Itoh.

C. Itoh is the trading company that arranged the sale of silent submarine technology from Toshiba Machine Co. to the Soviets. And Toshiba Electric Company, another subsidiary of Toshiba Corp., recently admitted supplying electrical equipment to the Libyan plant as a subcontractor for Japan Steel Works.

In the plant built by Japan Steel Works, Mitsubishi technicians are overseeing production lines for the poison gas canisters, sources said.

The plant is next to a large chemical production facility that was completed in the mid-1980s. Libya claims the chemical plant makes pharmaceuticals and pesticides; U.S. officials have charged that poison gas is produced there.

The first plant in the complex, to make poisons, was built largely by West German firms. When German involvement was revealed last fall, a resulting scandal shook the foundation of Helmut Kohl's ruling party.

Libyan officials fearing that the U.S. or Israelis might bomb the complex, have surrounded it with families in tents.

In a public session before the private briefing last week, CIA Director William Webster said the Libyans are producing mustard and nerve gases. Nerve gas causes death in minutes by attacking the brain and central nervous system. Mustard gas, used in World War I trench warfare, blisters the skin and lungs, causing serious injury or death.

In the private briefing, sources said, the CIA said Mitsubishi Heavy Industries has set up two production lines for poison gas canisters and that Libya is preparing to install a third line to produce guided missiles. The CIA indicated the missile production contract might go to a Southeast Asian firm, sources said.

In the public session, Webster discussed Libya's new refueling capability. Asked to comment on a map of the Middle East that showed the expanded list of targets Libyan bombers could strike with the new refueling capability, Webster said:

"I think you have illustrated one of the really strategic changes that this kind of weaponry can have. It moves it off the battlefield and puts it into the cities and strategic areas of the whole region."

Webster also was asked to comment on reports that members of the West German air force were involved in the refueling project, during or after their period of service. "I would prefer to discuss it this afternoon (in closed session)," he replied, "but you're right on target."

The CIA director also deferred until the closed session a question by Sen. Jesse Helms, R-N.C., the committee's ranking GOP member about Mitubishi Heavy Industries involvement.

Helms' aide William Triplett said the senator likely will introduce legislation seeking sanctions against Japanese firms involved in the gas canister plant.

"This upsets the balance of power and jeopardizes Israel's security," he said.

Sen. Clairborne Pell, D-R.I., chairman of the Foreign Relations Committee, declined to discuss the closed-door briefing. But aide Frank Sieverts said "He's very concerned about the whole subject of technology . . . He's already introduced a bill that would levy a variety of tough sanctions against countries and companies that transfer chemical or biological materials and technology" to unfriendly nations.

Another committee member, Sen. Paul Simon, D-Ill., said he was unaware of Mitsubishi's involvement with the nerve gas plant, but added, "If they are involved, I think we should protest to the Japanese

government in the strongest possible terms."

Simon said, "I had heard that the Japanese were involved in constructing an extension to the (nerve gas) plant, but that's different. I was even a bit taken back by that." Simon said he attended the public portion of last Wednesday's meeting of the committee, but that he was not present for the private session.

He also said that if Mitsubishi Heavy Industries is involved in the Libyan plant, "I would think we would have to review any involvement with that company" in the FSX airplane agreement.

The Bush administration began a review of the agreement in mid-February to see if the transfer of aerospace technology would hurt U.S. competitiveness. Bush reportedly was set to approve the agreement by Friday.

One Senate expert said the technology transfer involved in the fighter project "would move Japan's aerospace industry up an express elevator from the ground floor to the penthouse overnight.

"You're talking about giving them secrets that only the U.S. has at this time," he said.

Mitsubishi Heavy Industries participation in the production of nerve gas delivery systems for Libya raises the question of whether shared technology could compromise U.S. security if Japanese firms are willing to sell it to nations unfriendly to the United States.

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

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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.)

MESSAGES FROM THE HOUSE

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 678. An act to make a correction in the Education and Training for a Competitive America Act of 1988.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time by unanimous consent, and placed on the calendar:

H.R. 678. An act to make a correction in the Education and Training for a Competitive America Act of 1988.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Special report entitled "Activities of the Committee on Commerce, Science, and Transportation" (Rept. No. 100-5).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 431. A bill to authorize funding for the Martin Luther King, Jr., Federal Holiday Commission.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William J. Bennett, of North Carolina, to be Director of National Drug Control Policy (with additional and minority views) (Exec. Rept. No. 101-2).

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. REID (for himself and Mr. BRYAN):

S. 547. A bill to repeal a provision of Federal tort claim law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 548. A bill to amend title 10, United States Code, to expand the authority of the Secretary of the Air Force to enhance the Civil Reserve air fleet; to the Committee on Armed Services.

By Mr. GLENN:

S. 549. A bill to temporarily suspend the duty on self-folding telescopic shaft, collapsible umbrellas; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. MCCLURE, Mr. MURKOWSKI, and Mr. GARN):

S. 550. A bill to establish a national program to improve collaboration between the national laboratory system of the Department of Energy and the private sector so as to foster the development of technologies in areas of significant economic potential in order to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. BOSCHWITZ):

S. 551. A bill to amend the Internal Revenue Code of 1986 to restore a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. BRADLEY (for himself, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. SPECTER, Mr. LAUTENBERG, Mr. DOMENICI, Mr. KENNEDY, and Mr. PELL):

S. 552. A bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. HARKIN, Mr. BOSCHWITZ, and Mr. KASTEN):

S. 553. A bill to provide for more balance in the stocks of dairy products purchased by the Commodity Credit Corporation; considered and passed.

By Mr. WILSON:

S. 554. A bill to modify the navigation project for Morro Bay, CA, to direct the Secretary of the Army to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. GORE, Mr. NUNN, and Mr. PRYOR):

S. 555. A bill to establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 556. A bill to amend title II of the Domestic Volunteer Service Act of 1973 to require that priority be given to funding programs of national significance; to the Committee on Labor and Human Resources.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 557. A bill to provide that Pocatello and Chubbuck, ID, be designated as a single metropolitan statistical area; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 558. A bill to authorize a study on methods to protect and interpret the internationally significant Lechuguilla Cave at Carlsbad Caverns National Park in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 559. A bill for the relief of Shipco General, Inc., an Idaho corporation; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 560. A bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. BREAUX, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. BOND, Mr. BOSCHWITZ, Mr. COATS, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GRAMM, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. MCCONNELL, Mr. GRASSLEY, Mr. HELMS, Mr. SARBANES, Mr. WALLOP, Mr. WARNER, Mr. WILSON, and Mr. CHAFEE):

S. 561. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, and commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 562. A bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the old-age, survivors, and disability insurance program and the supplemental security income program; to the Committee on Finance.

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. HEFLIN, Mr. DASCHLE, Mr. BOREN, and Mr. PELL):

S. 563. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay; to the Committee on Armed Services.

By Mr. MATSUNAGA (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. MITCHELL, Mr. DECONCINI, and Mr. INOUYE):

S. 564. A bill to provide for an Assistant Secretary of Veterans' Affairs to be responsible for monitoring and promoting the access of members of minority groups, including women, to service and benefits furnished by the Department of Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself, Mr. GARN, Mr. GORE, Mr. GLENN, Mr. DANFORTH, Mr. CRANSTON, Mr. MITCHELL, Mr. DOLE, Mr. SIMPSON, Ms. MIKULSKI, Mr. HOLLINGS, and Mr. SIMON):

S.J. Res. 75. A joint resolution relating to NASA and the International Space Year; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. HEFLIN, Mr. DIXON, Mr. COCHRAN, Mr. EXON, Mr. WARNER, Mr. HOLLINGS, Mr. STEVENS, and Mr. MURKOWSKI):

S.J. Res. 76. A joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week"; to the Committee on the Judiciary.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S.J. Res. 77. A joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. Res. 79. A resolution to refer S. 559 entitled "A bill for the relief of Shipco General Inc., an Idaho corporation" to the Chief Judge of the U.S. Claims Court; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. STEVENS):

S. Con. Res. 19. A concurrent resolution to authorize printing of a collection of the inaugural addresses of the President of the United States; to the Committee on Rules and Administration.

By Mr. PRESSLER (for himself, Mr. HELMS, and Mr. DOLE):

S. Con. Res. 20. A concurrent resolution expressing grave concern over the rapidly deteriorating condition of ethnic Albanians living in the Socialist Federal Republic of Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. BRYAN):

S. 547. A bill to repeal a provision of Federal tort claim law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths, and for other purposes; to the Committee on the Judiciary.

RADIATION VICTIMS FAIR TREATMENT ACT

Mr. REID. Mr. President, yesterday I introduced legislation to protect the rights of victims of crime and to establish a victim's bill of rights for children. At the beginning of this week, I conducted hearings to explore allegations that aerospace workers are falling victims to composite materials on the job. Congress has a responsibility to put a stop to the root causes of victimization. Where that is not entirely possible, Congress must help victims seek restitution for their suffering. It is not possible, for example, to go back in time to reverse the decision to conduct aboveground nuclear testing with Americans working or living near ground zero. It is possible to admit that this practice was wrong and to help those people whose lives were ruined.

Four years ago, the administration requested insertion of an amendment in the Department of Defense authorization bill. The seemingly innocuous amendment was incorporated into that and subsequently passed as public law.

But these minor changes in language had a major impact. The provision affected thousands of men, women and children who worked at or lived near nuclear test sites during the era of above-ground testing. The amendment effectively denied these people any legal recourse against those responsible for radiation induced disease and death. The lives and health of these Americans was put at risk to serve the national security interests of our country.

When radiation's deadly effects manifested themselves in the form of cancer, extreme birth defects, death, victims and families tried to bring their grievances to court. They sought redress from the atomic weapons contractors, among others, who allegedly knew the hazards but never let the workers or the community in on the secret. The 1985 provision substituted the U.S. Government as the defendant in place of defense contractors. Additionally, it stated that all radiation victim cases would fall into the Federal Tort Claims Act. The Federal Government was thereby accorded certain immunities for which any courtroom defendant would yearn. The contractors got off the hook and the victims were left standing on their own. The prospect of filing a lawsuit, much less trying a lawsuit, were now nearly nonexistent.

Thousands of American veterans and scores of civilian employees and bystanders worked or lived near the test sites. These people and their families deserve better than this. They deserve, Mr. President, fair treatment. Our law as it now stands contains a grave inequity that must be corrected. That is why today I and my colleague, the Senator from Nevada, RICHARD BRYAN, are introducing the Radiation Victims Fair Treatment Act. This legislation will repeal the 1985 provision naming the Federal Government as defendant in radiation victim cases. It will accord victims fair treatment in this and other matters by allowing them their day in court to seek redress from the parties responsible for the radiation.

Many victims often referred to as the forgotten guinea pigs worked at or near the Nevada test site. I admire these people for the courage they have demonstrated despite tremendous adversity, Mr. President. They are committed to right the wrongs that have been done to them. I share that commitment. But since 1985, our colleagues from both parties in both bodies of Congress have worked hard to pass repeal legislation similar to that which I introduce today. Even the initial sponsor of the 1985 amendment, the distinguished senior Senator from Virginia, Senator WARNER, has publicly spoken out as a strong proponent for its repeal. Despite strong support, the bills have not come to a vote. It is unconscionable that we drag our heels on this any further. Some of the radiation victims with unheard claims have died or are dying. Let them who are dying do so with dignity, with the knowledge that we understand their suffering. Patriotic men and women who worked at the test sites and civilians who fell victim to the downwind fallout must be accorded fairness. In his play, the "Merchant of Venice", William Shakespeare wrote, "Men that hazard, all do it in hope of fair advantage."

The radiation victims gave of themselves to help our country and were unknowingly inreversibly harmed. It is only right that we render to them fair advantage.

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. 547

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 "Radiation Victims Fair Treatment Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) civilians working at the Nevada Test Site and civilians living near the test site were exposed to radiation from above-ground nuclear tests;

(2) this exposure to radiation caused disease and eventual death to many of these civilians;

(3) the lives and health of these civilians was put at risk to serve the national security interests of the United States; and

(4) such civilians deserve fair treatment by allowing them their day in court to seek redress from the parties responsible for the radiation.

REPEALER

SEC. 3. Section 1631 of the Department of Defense Authorization Act (98 Stat. 2646) (relating to the application of the remedy against the United States provided by sections 1346(c) and 2672 of title 28, United States Code, or by the Act of March 9, 1920, to any civil action for an injury, or death described in subsection (a)(1) of such section 1631) is repealed.

APPLICATION

SEC. 4. (a) The period during which section 1631 of the Department of Defense Authorization Act (98 Stat. 2646) was in effect shall not be taken into account in computing the period provided in any Federal or State statute of limitations applicable to any civil action for an injury, loss of property, personal injury, or death described in subsection (a)(1) of such section.

(b) If the period provided in any Federal or State statute of limitations applicable to a civil action referred to in subsection (a) expires within one year after the date of the enactment of this Act, the action shall not be barred by such statute, but shall be forever barred if not commenced within one year after such date.

By Mr. STEVENS:

S. 548. A bill to amend title 10, United States Code, to expand the authority of the Secretary of the Air Force to enhance the Civil Reserve air fleet; to the Committee on Armed Services.

EXPANSION OF CIVIL RESERVE AIR FLEET

Mr. STEVENS. Mr. President, Department of Defense contingency planning is heavily dependent on the policy of forward defense. Forward defense means getting U.S. forces and equipment to the battlefield in order to counter attacks on our allies or our own forces overseas. The key to the success of this doctrine is the means to get those forces to the front.

Over 50 percent of our national airlift exists in the private, civilian sector. The commander in chief of the U.S. Transportation Command, Gen. Duane Cassidy, recently testified before the Appropriations Defense Subcommittee and highlighted the importance of civilian assets to accomplish his mission. The Civil Reserve Air Fleet [CRAF] is the portion of the commercial industry that has been identified and would be immediately dedicated in wartime to meet our transportation requirements.

The Civil Reserve Air Fleet Program modifies commercial transports with military unique equipment, such as secure communications, transponders, and structural reinforcement to support additional weight. These modifications are essential for CRAF transports to meet the military mission. Existing legislation limits the nature and scope of this program, and that is the reason for the bill I am introducing today.

The legislation I propose comes at a critical time. American aircraft manufacturers are enjoying the highest rate of new commercial orders in history. That is good for the Nation, and potentially valuable to the Department of Defense. These aircraft could dramatically increase the capabilities of the Civil Reserve Air Fleet, and enable the United States to meet its commitments around the globe. Current restrictions prohibit DOD from spending a small number of dollars today to incorporate these modifications during construction of the aircraft, at a fraction of the cost of later installation.

My proposal stems from a report requested of the Air Force in the fiscal year 1989 Defense Appropriations Act. The committee has received this study, and I have provided copies to the chairman and ranking member of the Armed Services Committee for their review. I ask that this report be included in the RECORD after my statement. I have worked closely with the Department of Defense on this language, which amends certain subsections of title 10 of the United States Code. The objective is a simple one: to permit inclusion of these military characteristics at the least costly manner, while the aircraft is under construction. To date, the primary focus of the CRAF effort has been to modify passenger aircraft. This proposal includes cargo-passenger combined aircraft, a growing segment of the civil fleet. Recognizing the increased operational costs faced by the operators of these planes, some provision is made for this factor.

In other hearings this year, our committee has heard also of the current sealift crisis, and the need for action to preserve the last vestiges of the American merchant fleet. The question keeps recurring, why did we not take action before. We now face a unique opportunity in the vibrant and robust air transport industry to ensure for the next 25 years the availability of modern transports with the key military characteristics vital to support a national emergency. We should seize this chance, so that later on we will not face reproach while spending far larger sums to perform the same changes that we can accomplish today so easily.

I have introduced this bill separately, rather than as amendment to this year's defense authorization bill, so that this initiative can receive the attention of the Armed Services Committee through its deliberations. I hope that this proposal can be given swift consideration, or be included in the 1990 National Defense Authorization Act. This bill would not buy a single new aircraft. This bill merely allows the Department of Defense to do what many in Congress have been urging for some time: to take advantage of sound fiscal opportunities at the least cost to the taxpayer. I believe this bill achieves that goal.

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

DEPARTMENT OF THE AIR FORCE,
Washington, DC, January 30, 1989.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate Appropriations Committee Report on the FY 1989 Department of Defense (DOD) Appropriation Bill requested that the Air Force submit a report detailing the estimated cost and benefits of expanding the scope of the Civil Reserve Air Fleet (CRAF) Enhancement Program. The attached report fulfills the Congressional request for information and proposes such an expanded CRAF Enhancement Program.

The CRAF has been providing ready, cost effective airlift to the DOD since 1952 and plays a major role in national defense. The ongoing CRAF Enhancement Program was designed to increase the long-range cargo capability of the CRAF but lacks the flexibility to improve the military utity of many new and existing commercial aircraft.

We believe the DOD should be authorized to incorporate cargo-capable features into new and existing civilian aircraft that would enhance their military utility in a national emergency. This participation would also include incorporating into select cargo and passenger aircraft: secure communications equipment, military cargo handling features, and equipment which would enable the Air Traffic Control system to readily identify commercial aircraft in a hostile environment.

Expanding the scope of the CRAF Enhancement Program would enable the DOD to improve the military utility of the CRAF in a very effective and efficient manner.

Sincerely,

J.J. WELCH, Jr.,
Acting Secretary of the Air Force.

REPORT TO THE CONGRESS ON EXPANDING THE SCOPE OF THE CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

INTRODUCTION

The Senate Appropriations Committee Report on the FY 1989 Department of Defense (DOD) Appropriation Bill requested that the Air Force submit a report detailing the estimated cost and benefits of expanding the scope of the Civil Reserve Air Fleet (CRAF) Enhancement Program. This report answers the Congressional request for information and proposes such an expanded CRAF Enhancement Program.

Expanding the scope of the CRAF Enhancement Program is consistent with the June 1987 National Airlift Policy statement

which directed the Department of Defense (DOD) and the Department of Transportation (DOT) "to promote the incorporation of defense features in commercial aircraft." The objective of the National Airlift Policy is to ensure military and civil airlift resources will be able to meet defense mobilization and deployment requirements in support of US defense and foreign policies. Expanding the CRAF Enhancement Program would permit the DOD to participate in building new civilian aircraft or in modifying existing civilian aircraft in any of the cargo-capable configurations: all-cargo freighters, cargo convertible passenger aircraft, or combination passenger/cargo aircraft (combi). It would also permit DOD to participate in incorporating necessary communications and navigational equipment to make civil passenger aircraft interoperable with the military airlift system. The elements of this expanded program would include incorporating into select cargo and passenger aircraft: secure communications equipment, aircraft range enhancements, military cargo handling features, and equipment which would enable the Air Traffic Control system to readily identify commercial aircraft as friend or foe (IFF units). Expanding the scope of the CRAF Enhancement Program will require modifications to the authorizing legislation for this program (Public Law 97-86).

BACKGROUND

The Civil Reserve Air Fleet (CRAF) has been providing ready, airlift augmentation to the DOD since 1952. Its basis is a series of interagency agreements and contracts with civil carriers giving the DOD access to a civilian fleet of aircraft to assist in meeting wartime requirements. The CRAF currently consists of 441 civil aircraft. The long-range, international portion consists of 99 cargo aircraft, capable of carrying over 13 million ton-miles of cargo per day, and 276 passenger aircraft, capable of carrying nearly 158 million passenger-miles per day. This is nearly 24 percent of the cargo airlift and 95 percent of the passenger airlift available to the DOD for movement from the United States to overseas in the event of a national emergency. To replace this capability, the DOD would have to purchase 86 Boeing 747-100 all cargo aircraft and 205 Boeing 747 passenger aircraft. One of the factors making CRAF attractive to the DOD is the fact that many of the aircraft that meet the demands of the commercial market place can provide passenger and cargo airlift to the DOD in time of national emergency without time-consuming modification.

In return for providing this airlift augmentation for the DOD, the civil airlift industry earns peacetime revenue through contracted movement of a portion of DOD cargo and passenger airlift. Each carrier's share of this peacetime business is based on the type and amount of airlift capability it commits to the CRAF.

This airlift capability plays a major role in national defense. A fundamental principle of our national strategy calls for the rapid projection of US forces to protect our national interests and to honor commitments to our allies. The 1981 Congressionally Mandated Mobility Study (CMMS) looked at our nation's ability to project those forces under four representative scenarios. It concluded the DOD was short of airlift and recommended a program be adopted that would increase DOD's airlift capability to 66 million ton miles per day (MTM/D). Ton miles are used as a measure of airlift requirements or capability. A ton mile of requirement is what it would take to move a ton of cargo one nautical mile. A specific requirement would be to move a 105-MM Howitzer weighing 7 tons from Ft. Campbell, Kentucky, to central Europe (4300 NM). This would equate to 30,100 ton miles or 0.030 MTM.

The Air Force Airlift Master Plan details our efforts to achieve the 66 MTM/D goal with a mixture of military and CRAF aircraft. One program to reduce the shortfall will be the acquisition of the C-17 airlifter. However, military and commercial resources are equally important and interdependent in meeting defense mobilization requirements. The 1987 National Airlift Policy recognized the importance of commercial airlift when it stated that "the commercial air carrier industry will be relied upon to provide the airlift capability required beyond that available in the organic military airlift fleet." The National Airlift Policy also directs the DOD to "promote the incorporation of defense features in commercial aircraft."

One of the most cost effective elements of the Air Force Airlift Master Plan is the ongoing CRAF enhancement program, authorized by Public Law 97-86, designed to add even more cargo capability to the CRAF. This program allows the Secretary of the Air Force to contract for the addition of certain features to civil passenger aircraft in order to make them useful as cargo aircraft. These features increase an aircraft's ability to carry the bulky and oversize cargo needed in war by installation of a cargo floor (substantially stronger than the conventional floor), a cargo door, and a roller and rail system to accommodate standard military cargo configurations. The program objective is an FAA certificated "cargo-convertible" aircraft.

Under the current CRAF Enhancement Program, the DOD pays for the additional costs associated with building a new passenger aircraft as a cargo-convertible or the cost of modifying an existing passenger aircraft. However, a convertible aircraft weighs more than a passenger aircraft because it has a stronger floor and cargo door. Therefore, it will cost the owners more to operate a convertible aircraft on a day-to-day basis. If the participating air carrier has no need for the added cargo capability and agrees not to use it in peacetime, the DOD compensates the air carrier for all the additional costs associated with operating a heavier aircraft. If the carrier uses the main deck capability of the aircraft to move cargo in peacetime, the DOD pays for up to 50 percent of the additional construction or modification costs and nothing more. Participants in the program must commit the aircraft to the CRAF for 12 to 16 years and provide appropriate refunds to the government if an aircraft concerned is sold or destroyed during the contract period.

A great advantage of this program is that it increases the amount of airlift available while it avoids the acquisition, training, and support costs associated with purchasing and operating an additional DOD-owned fleet of cargo aircraft. Though CRAF cargo-convertible aircraft lack the loading versatility and operational flexibility of military aircraft such as the C-17, they do contribute to the nation's wartime airlift capability.

The existing CRAF Enhancement Program is beneficial and will increase to long-range, international cargo capability of the CRAF by just over 3.3 million ton-miles per day by 1990. Thus far, the government has contracted with four airlines for a total of 23 aircraft. The first contract was for $17.9 million with United Airlines for a new DC-10-10 delivered in September 1982. The second was for the retrofit of 19 existing Pan American World Airways Boeing 747 aircraft at a cost to the government of approximately $30 million each. The last of these aircraft will be delivered in Oct. 1989. The third contract, for $4.3 million, was awarded in 1986 to Federal Express for a DC-10-30 cargo convertible aircraft delivered in September 1987. The most recent CRAF enhancement contract was awarded to Evergreen Airlines to modify two existing Boeing 747 passenger aircraft. The modification of these aircraft should be completed by November 1989 at government cost of $4.6 million each. The cost of the Federal Express and Evergreen contracts is significantly lower than the United and Pan American contracts because Federal Express and Evergreen use the additional cargo capability in peacetime. A summary of these contracts is shown below.

Aircraft type	Capability (tons)	Term (years)	Contract cost
United DC-10-10	40.5	16	$17,900,000
Pan Am B-747	73.1	12	30,000,000
Fed Ex DC-10-30	54.6	16	4,300,000
Evergreen B-747	73.1	12	4,600,000

DEFICIENCIES IN THE CURRENT CRAF ENHANCEMENT PROGRAM

Despite the success of the current CRAF Enhancement Program, it is deficient in that it does not allow the DOD to participate in building new civilian aircraft or in modifying existing civilian aircraft in all of the cargo-capable configurations: all-cargo freighters, cargo convertible passenger aircraft, or combination passenger/cargo aircraft (combi). Additionally, it does not provide for DOD participation in the incorporation of necessary communications and navigational equipment to make civil passenger aircraft interoperable with the military airlift system.

Our primary concern is with the growing number of "missed opportunties" to improve the military utility of new acquisitions. Civilian carriers are buying a new generation of commercial all-cargo aircraft, but they lack the necessary range, avionics, and/or cargo handling features needed for DOD use. For example, in 1987, United Parcel Service (UPS) began purchasing 20 B-757 Package Freighters. Unfortunately, these aircraft lack both a compatible military cargo handling system and the equipment for long-range overwater operations, required for CRAF participation. Because Public Law 97-86 does not allow the DOD to contract for such features in all-cargo aircraft, these 20 UPS B-757s will not be useful to the CRAF and, therefore, will not be enrolled in the program.

Similarly, Federal Express was planning to buy a large quantity of medium-range, narrow-body cargo aircraft (B-727s) and only a few long-range, wide-body aircraft (DC-10-30s) to meet their growing business requirements. However, in recognition of the Air Force's long-range cargo shortfall, Federal Express was prepared to buy a larger quantity of DC-10-30s, provided the government would pay a portion of the cost differential between the DC-10-30s and the B-727s. For this cost differential, the DOD would have received into CRAF some very militarily useful aircraft that were equipped with the necessary material handling sys-

tems and communications. Despite our interest in the proposal. Public Law 97-86 does not authorize this type of contract. Consequently, Federal Express bought a larger quantity of B-727s and only a few DC-10-30s to meet their demands, none of which had the necessary military utility.

Another deficiency in the existing program is the inability to incorporate equipment or design features which would ensure the military interoperability of civil passenger aircraft which will move 95 percent of the airlifted troops in the event of an emergency. Currently the DOD radars may not be able to distinguish between civil passenger aircraft and foreign military threat aircraft operating in a hostile environment.

Because of these deficiencies in the existing CRAF Enhancement Program, we recommend that its scope be expanded. However, to expand the CRAF Enhancement Program, new legislation will be required.

PROGRAM DEFINITION

First, an expanded CRAF Enhancement Program should enable the DOD to be involved in the development and procurement of add-on equipment to enhance the compatibility of not only cargo covertible passenger aircraft, but also all-cargo freighters, combintation passenger/cargo aircraft, and civil passenger aircraft. Such equipment would include secure communications, aircraft range enhancements, and Identification, Friend or Foe (IFF) units. The ability to pass important mission control information in a timely and secure manner, and to identify these aircraft as friendly vehicles operating in support of a major reinforcement, will ensure the utility of these aircraft during a crisis. Because this equipment is not needed on a daily basis by the airlines, it would be designed as light-weight, carry-on equipment which would remain the property of the government. The equipment would also be removed from the aircraft should it be sold to a foreign carrier or retired. Such equipment would be designed in close cooperation with the airlines, with installation, maintenance, and training provided and paid for by the DOD.

Second, the DOD needs the flexibility to be able to work toward the modification of civil aircraft to incorporate cargo-convertible or cargo-capable features to increase the long-range cargo capability of the CRAF. This would be done by DOD participation in the building of new aircraft, or the modification of existing aircraft to any of the cargo-capable configurations-freighter, convertible, or combi.

The new program should also be general enough to allow the DOD to contract with the air carriers for incorporation of additional defense features as necessary.

SCOPE AND FUNDING

It should not be the goal of the new program to modify every new or existing long-range aircraft in the US civil inventory. Incorporating defense features such as secure communcations, appropriate navigational equipment, IFF, and cargo features into all long-range aircraft would be unrealistic since there will always be some essential civil requirements which would preclude a 100 percent allocation to the DOD by DOT. However, there are a large number of aircraft that should be equipped with the necessary features to support the nation's defense needs. For example, all 375 long-range aircraft participating in the CRAF should have secure communications and militarily compatible IFF systems. In addition to the communications and navigation requirements, we must have a way to encourage the incorporation of standard military cargo handling capability into newly acquired civilian aircraft to allow their enrollment into the CRAF. This new authority would allow us to provide an incentive (cost of modification) to the carrier to place additional aircraft in the CRAF.

Some elements of this program would have to wait for full implementation. For example, the installation of communications and navigation equipment should be delayed until standard specifications have been finalized, to include interoperability with NATO. However, other elements should be acted on now. Specifically, we should equip the 20 United Parcel Service B-757 Package Freighters with cargo handling equipment (MHE) compatible with our system. This will cost approximately $90,000 per aircraft. To initiate this portion of the program we are requesting $0.9 million in the FY90 aircraft modification budget. To complete the program, we will require $0.9 million in FY91. We should also seek an FAA waiver for the B-757s to operate overwater during CRAF Stage III activation.

It is impossible to estimate the precise cost of DOD compatible communications until the specifications are finalized. However, we estimate that $2 million per year would allow us to modify up to 40 aircraft per year. Additional funds would be required to incorporate needed range enhancements.

Since commercial operators do not need to purchase these features for their own operations, the DOD should program to install necessary fixtures and wiring in the aircraft during production. This installation would enable the DOD to add light-weight, carry-on electronic equipment at a later date. Otherwise, we can expect future aircraft to be purchased without these required defense features. A proportionally small government investment would increase the capability of the CRAF in a very cost-effective manner. The table below illustrates the costs to incorporate modifications into two types of aircraft.

Aircraft	Secure communications	IFF system	MHE
B-757	$25,000	Unknown	$90,000
B-757	25,000	do	NA

Modifications to additional aircraft are difficult to program and have historically been "targets of opportunity." This makes long term planning difficult at best. However, for the past several years we have had the opportunity to enhance two to three aircraft per year at an average cost of $5 million each. As funds are programmed, a level of effort of two aircraft per year should be pursued. In the interim, as targets of opportunity present themselves, reprogramming actions could be taken.

COST AND BENEFITS

In preparation of this report, we compared the costs and benefits of the proposed expansion of the CRAF Enhancement Program with the current CRAF Enhancement Program and the option of government ownership.

While the current program is cost-effective, its limitations often cost the DOD more than necessary. One example is the recent contract to modify an Evergreen B-747 passenger aircraft to a cargo-convertible aircraft. This contract cost $4.6 million, and the aircraft will be committed to the CRAF for 12 years, fully supported by four crews. Conversely, it would cost the government approximately $81 million to acquire the aircraft and operate it for the same length of time. However, if this aircraft could have been converted to a cargo-only aircraft, rather than being required to retain its passenger capability, we would have been able to save even more. Under the existing legislation, Evergreen must maintain the capability to carry passengers. This includes maintenance and storage of seats, emergency oxygen systems, additional lighting, public address systems, and the ability to reinstall all of these passenger-only features. However, neither the DOD nor the carrier has any intention of ever using this aircraft in the passenger configuration.

Under the current CRAF Enhancement Program, aircraft are committed to the DOD for a period of 12 to 16 years. However, given the current state of aircraft manufacturing technology, it is not unrealistic to require a longer commitment for new aircraft which participate in the program. In recognition of the longer commitment and enhanced capability, an investment of $5.0 to $10.0 million would be appropriate for a new Boeing 747, McConnell Douglas DC-10-30, or MD-11 aircraft committed for 17 to 21 years. The table below shows the capability and projected government ownership cost for three types of new aircraft.

Aircraft type	Capability (tons)	Term [1] (yrs)	CRAF [2] investment (millions)	Government [3] (millions)
DC-10-30	73	20	$5-$10	$92
MD-11	80	21	5-$10	117
B-747-200	91	17	5-$10	103

[1] This is based on projected service life of aircraft.
[2] Actual investment would depend on the type of aircraft, the term of the contract, and the amount of capability purchased relative to the carriers' peacetime needs.
[3] This is the approximate cost of owning and operating these aircraft for the projected service life.

These examples show that the benefits of CRAF enhanced aircraft relative to the government ownership option are significant. As mentioned earlier, the reason is that the majority of the acquisition, operating, and maintenace costs are paid by the carriers. The government only pays the marginal costs associated with incorporating the necessary military capability and, if necessary, with operating a heavier commercial aircraft.

LEGISLATION

Legislation is needed to optimize the potential benefits from the Civil Reserve Air Fleet. This new legislation should give the Secretary of the Air Force the authority to participate in building new civilian aircraft or in modifying existing civilian aircraft in any of the cargo-capable configurations: all-cargo freighters, cargo convertible passenger aircraft, or combination passenger/cargo aircraft (combi). It should also permit DOD to participate in incorporating necessary communications and navigational equipment to make civil passenger aircraft interoperable with the military airlift system. The legislation should be flexible and should be tailored to support the acquisition of civil aircraft which best meet defense needs.

Such legislation authorizing an expanded CRAF Enhancement Program would keep the nation strong by promoting the growth of airlift capability and by controlling the government spending needed to accomplish this effort. The U.S. commercial air cargo

and passenger industry is growing, and the program can take advantage of this opportunity to ensure that the defense airlift capability of the CRAF also continues to grow.

SUMMARY

The Civil Reserve Air Fleet has been providing ready, cost-effective airlift to the DOD since 1952. The ongoing CRAF Enhancement Program was designed to add even more cargo capability to the CRAF but lacks significant features to better meet projected airlift need. CRAF Enhancement remains the most cost-effective way to obtain the required airlift capability while maintaining a balanced force structure. However, legislation is needed to expand the CRAF Enhancement Program. This new legislation should permit the DOD to participate in building new civilian aircraft or in modifying existing civilian aircraft in any of the cargo-capable configurations: all-cargo freighters, cargo convertible passenger aircraft, or combination passenger/cargo aircraft (combi). It should also permit DOD to participate in incorporating necessary communications and navigational equipment to make civil passenger aircraft interoperable with the military airlift system.

By Mr. GLENN:

S. 549. A bill to temporarily suspend the duty on self-folding telescopic shaft, collapsible umbrellas; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN UMBRELLAS

● Mr. GLENN. Mr. President, today I am introducing legislation to suspend temporarily the duty on hand-held, collapsible umbrellas with a telescopic shaft. This legislation is noncontroversial and should be acceptable to the Senate as part of the miscellaneous tariff bill.

Telescopic shaft, collapsible umbrellas are currently classified under Tariff Schedule of the United States item 751.0510 and are subject to an 8.2 percent ad valorem duty.

There is at present no known integrated umbrella making industry in the United States engaged in the manufacture of these mass market, handheld umbrellas or umbrella frames. Therefore the existing duty on imported umbrellas serves no legitimate "industry protection" purpose.

Some U.S. firms are assembling certain specialty umbrellas using imported frames. For the most part, these firms manufacture beach, golf or other specialty umbrellas which are not directly competitive with self-folding collapsible umbrellas. Thus, the duty suspension for these umbrellas will not inflict harm on American workers or companies.

There is a substantial market in this country for collapsible umbrellas. In 1988, 44 million umbrellas were imported into this country, representing a value of $82.7 million.

The requested duty suspension would produce a much-needed savings to U.S. importers and may result in some savings for consumers. For example, in 1988 U.S. firms paid $6.0 million in Customs duties on the imported collapsible, telescopic shaft umbrellas, some or all of which may have been passed on to the consumer.

As far as I have been able to determine, there is no opposition to this duty suspension. Given domestic firms' reliance on foreign sources of finished, self-folding collapsible umbrellas, the continued imposition of a high tariff on them is not aiding any U.S. industry.

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. 549

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

SECTION 1. SELF-FOLDING TELESCOPIC SHAFT, COLLAPSIBLE UMBRELLAS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

"9902.6601	Self-folding telescopic shaft, collapsible umbrellas chiefly used for protection against rain (provided for in subheading 6601.91.00).	Free	No change ...	No change ...	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. MCCLURE, Mr. MURKOWSKI, and Mr. GARN):

S. 550. A bill to establish a national program to improve collaboration between the national laboratory system of the Department of Energy and the private sector so as to foster the development of technologies in areas of significant economic potential in order to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY NATIONAL LABORATORY COOPERATIVE RESEARCH AND TECHNOLOGY COMPETITIVENESS ACT OF 1989

● Mr. DOMENICI. Mr. President, I am pleased to reintroduce today the Department of Energy National Laboratories Cooperative Research Initiatives Act. This important legislation was passed by the Senate twice last year, but failed to win approval in the House of Representatives.

This bill is designed to help us get the most from the research investments we make at our federally sponsored laboratories. It would make technology management improvements within the Department of Energy National Laboratory System, and would go far to improve cooperative research between our laboratories, universities, and American industry.

This in turn will improve, and make more useful, the research being conducted at our laboratories—better enabling industry to develop and commercialize the innovations generated at our national laboratories.

Mr. President, more and more we are noticing how quickly other nations, particularly Japan, are putting into quick commercial use innovations and technologies that were first developed by our own scientists.

But if we fall behind, it is not because we lack a commitment to basic science research. Our Nation is a world leader in basic science and technology research. The U.S. Government and private industry each spent about $50 billion on research and development in 1987.

This is a tremendous investment. Our problem is that we do not take full advantage of the research resources we have created, and which are so vital to world competitiveness.

In recent years, the administration and Congress have moved to improve the process of technology transfer from our federally sponsored laboratories. Through legislation and executive orders we have moved to decentralize management of technologies developed in Federal laboratories.

It is very important that we improve technology transfer since it makes the laboratories that develop, and that are most knowledgeable about, new technologies principally responsible for seeing the innovations converted into commercial applications.

This decentralization effort has already been applied to Federal research laboratories working under several Federal agencies, including the Department of Defense and the National Institutes of Health. Yet, we still have a way to extend these changes to the agency overseeing the Nation's largest group of scientists, engineers, physicists, and mathematicians—the Department of Energy [DOE].

The national laboratories are among our Nation's most valuable, but too often underutilized, national scientific resources. While created for specific energy and defense related missions, these laboratories have developed tremendous research capabilities. They are producing technologies with a wide array of applications, far beyond the original missions of the research.

I am familiar with these labs since two of the very best are located in my State of New Mexico: Los Alamos and Sandia.

Because of the unique capabilities of these laboratories, they are among the

world leaders in several important research areas, including work on superconductivity, semiconductors, and the mapping of the human genome.

Research at the national laboratories holds great potential for improving our quality of life. We must not let these scientists be hidden away, or let their work just sit on the shelf. This legislation will help these laboratories be more than just closed off havens of research. It will help them become engines for American economic strength, and for an enhanced quality of life.

Mr. President, let me briefly describe the bill. Title I would enable the national laboratories to become centers for technology management by giving them the authority to negotiate, enter into, and participate in cooperative research and development agreements with universities and industry. Part of this authority allows the laboratories to negotiate terms for transferring to industry the commercial rights to unclassified innovations generated at the labs.

I would point out that DOE would have a 30-day period within which to reject or modify any proposed agreement. In addition, the Government would always retain a royalty-free license to technologies developed at the labs.

The second title would establish a program of cooperative research at the national labs into technologies in high-temperature superconductivity. Research in this area is of tremendous national importance, and is a research area in which several DOE national laboratories have become world leaders.

Research centers would be established at several laboratories, and a council would be created to direct the activities of the centers. The council would also bring together university, industry, and government representatives to help develop national strategies for research, technology development, and commercialization.

The final title provides for additional, general provisions necessary to carry out the technology transfer directives of the bill. This title clarifies how ownership of patents and intellectual property arising from work at the national laboratories would be transferred to the laboratories.

This is essential for effective technology transfer from the laboratories, and successful cooperative agreements with outside parties. To ensure that the labs do not sit on any technologies, the DOE retains march-in rights to the technologies to see that they are developed.

Let me assure my colleagues that this bill does not give ownership of classified, or sensitive technologies to the laboratories or anyone else. Several provisions have been included to ensure and clarify that nothing in this bill limits the Department of Energy's ability to control classified or sensitive research or research products.

The laboratories must still abide by the national security requirements, and export-import restrictions to which they have always had to adhere. Technologies determined by DOE to be classified or sensitive will still be protected from disclosure and dissemination.

Let me also point out that the policies advanced in this legislation are consistent with past National Security Council recommendations, executive orders covering policy for all Government-sponsored research, and Department of Defense [DOD] regulations covering DOD laboratories.

Provisions have also been included to ensure and clarify that technology transfer efforts encouraged in this bill will not interfere with the primary missions of the labs.

What this legislation is about is enabling the national laboratories, which develop numerous technologies with tremendous civilian commercial potential, to move that technology quickly into America's commercial mainstream. The legislation is also about making the tremendous research resources we have already created at these laboratories more accessible to industry and our universities.

I'd like to finish by citing an example of the kind of economic potential that technology transfer from these laboratories holds for America.

Within 1 year, the Massachusetts Institute of Technology [MIT] generated 27 startup companies from DOE sponsored research, along with 200 agreements to major companies to commercialize DOE research. During the same time, the entire Department of Energy produced, roughly, the same amount of technology transfer activity.

Yet, DOE's budget and work force of 23,000 scientists make it about 10 times the size of MIT. If DOE and its laboratories could only just match MIT's effort of that year, we should see a ten fold increase in economic activity.

The potential is very real.

Mr. President, I want to thank my colleagues who have joined me in cosponsoring this legislation, as well as the many people who have helped in the past. In particular, I want to thank my colleague and fellow New Mexican, Mr. BINGAMAN, for his help. He has been a strong supporter of improving technology transfer from the laboratories, and has worked hard to advance this legislation.

I urge all my colleagues to support this bill, and hope we can work quickly to pass it again in the Senate, so that it soon can become law.

I ask that following my remarks the bill, and a section by section summary of the bill, be printed in the RECORD.

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

S. 550

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Department of Energy National Laboratory Cooperative Research and Technology Competitiveness Act of 1989".

SEC. 2 DEFINITIONS.

For purposes of this Act, the term—

(1)(A) except as provided in subparagraphs (B) and (C), "National Laboratory" means the following Department of Energy laboratories—

(i) Lawrence-Livermore National Laboratory;

(ii) Lawrence-Berkeley National Laboratory;

(iii) Los Alamos National Laboratory;

(iv) Sandia National Laboratory;

(v) Fermi National Accelerator Laboratory;

(vi) Princeton Plasma Physics Laboratory;

(vii) Idaho National Engineering Laboratory;

(viii) Argonne National Laboratory;

(ix) Brookhaven National Laboratory;

(x) Oak Ridge National Laboratory (including the Y-12 Plant);

(xi) Pacific Northwest Laboratory;

(xii) Ames Laboratory;

(xiii) Stanford Linear Accelerator Center

(xiv) Bates Linear Accelerator Facility;

(xv) Center for Energy and Environment Research;

(xvi) Coal Fired Flow Facility;

(xvii) Energy Technology Engineering Center;

(xviii) Hanford Engineering Development Laboratory;

(xix) Inhalation Toxicology Research Institute;

(xx) Laboratory for Energy-Related Health Research;

(xxi) Laboratory of Biomedical and Environmental Sciences;

(xxii) Laboratory of Radiobiology and Environmental Health;

(xxiii) Michigan State University-DOE Plant Research Laboratory;

(xxiv) Notre Dame Radiation Laboratory;

(xxv) Oak Ridge Associated Universities;

(xxvi) Radiobiology Laboratory;

(xxvii) Savannah River Ecology Laboratory;

(xxviii) Savannah River Laboratory;

(xxix) Solar Energy Research Institute; and

(xxx) Stanford Synchrotron Radiation Laboratory.

(B) Such term does not include Naval Nuclear Propulsion Reactor Laboratories, or their contractors or subcontractors performing work covered under Executive Order 12344, as codified in section 7158 of title 42, United States Code.

(C) Such terms shall include any future government-owned, contractor-operated laboratory facilities established as Department of Energy Multi-program Laboratories or Program-Dedicated Facilities.

(2) "collaborative party" means a party to a cooperative research and development agreement;

(3) "computer software" means recorded information, regardless of form or the media on which it may be recorded, comprising computer programs or documentation thereof;

(4) "contract" means any contract, grant, or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, entered into between any Federal agency and any contractor for the performance of research, experimental, and developmental activities funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of such activities.

(5) "cooperative research and development agreement" means any agreement between the Directors of one or more National Laboratories and one or more Federal or non-federal parties under which the Federal government, through such National Laboratory or Laboratories, provides personnel, services, facilities, equipment, or other resources with or without reimbursement and the non-federal parties provide funds, personnel, services, facilities, and equipment, or other resources toward the conduct of specified research, development, and demonstration efforts that are cosistent with the missions of the National Laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code.

(6) "director of a National Laboratory" means the employee of the Department of Energy laboratory manager or operator who directs the management and operation of such National Laboratory;

(7) "Federal Agency" means any executive agency as defined in section 105 of title 5, United States Code, and the military departments defined by section 102 of title 5, United Stated Code.

(8) "funding agreement" means any contract, grant, or cooperative agreement entered into between the Secretary of Energy and a contractor operating a National Laboratory that provides for such contractor to perform research, experimental, and development activites at such National Laboratory.

(9) "intellectual property" means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by federal law;

(10) "invention" means any invention that is or may be patentable or otherwise protected under Title 35, United States Code, or any novel variety of plant that is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.);

(11) "laboratory manager or operator" means the contractor who has signed a contract with the Secretary for management and operation of a National Laboratory (but only with respect to activities relating to such management or operation);

(12) "laboratory owned" means any rights in intellectual property conveyed under this title to a contractor operating a National Laboratory or any rights in intellectual property arising under the operating contract for a National Laboratory where rights are not expressly taken by the United States Government or by a subcontractor;

(13) "made" when used in conjunction with any invention means the conception or first actual reduction to practice of such invention;

(14) "Secretary" means the Secretary of Energy;

(15) "subject invention" means any invention of a National Laboratory first conceived or reduced to practice in the performance of work under a contract or funding agreement for the operation of a National Laboratory; and

(16) "third parties" means domestic entities located in the United States who agree to manufacture and to conduct research and development substantially in the United States including—

(A) Federal agencies other than the Department of Energy;

(B) units of State or local government;

(C) industrial organizations, such as corporations, partnerships, limited partnerships, consortia, or industrial development organizations;

(D) public and private foundations;

(E) nonprofit organizations such as universities; and

(F) licensees of inventions or computer software owned by the laboratory manager or operator.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the Nation's economic competitiveness and strategic well-being depends on the development of advanced energy technologies, such as those anticipated to evolve from research and development on high temperature superconducting materials;

(2) the national laboratories of the Department of Energy constitute a multi-discipline capability in general science, energy science, and defense related technology development with incomparable research and computer facilities with research and support staffs of demonstrated international expertise;

(3) while the National Laboratories have demonstrated successes in technology transfer into the private sector, the effectiveness of this effort can be significantly enhanced if—

(A) industry is made more aware of the National Laboratory research and development capabilities and activities;

(B) technology transfer is established as a significant element of the mission of the National Laboratories;

(C) the National Laboratories are made more aware of industry market requirements; and

(D) industry becomes more involved with the activities of National Laboratories early enough in the research and development process to provide guidance on the development of commercially viable products; and

(4) a national initiative is needed, if there is to be a timely transfer of energy technology developments from the National Laboratories to the private sector, except that nuclear weapons design, development, production, and maintenance must remain the primary mission of the Department of Energy nuclear weapons complex.

SEC. 4. PURPOSES.

The purposes of this Act are to—

(1) enhance collaboration between universities and the private sector and the National Laboratories of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

(2) establish that it is a mission of each National Laboratories to foster, through the transfer of technology to the private sector consistent with the national security and a fair return on the taxpayers' investment, the commercialization of technologies developed in connection with its research, experimental, and development activities; and

(3) better meet the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in the National Laboratories' research and development in meeting international competition.

SEC. 5. DIRECTIVE.

The Secretary shall—

(1) take such actions as he deems appropriate and consistent with law to further the mission set forth in section 4(2); and

(2) ensure that the mission set forth in section 3 is carried out in a manner that is not detrimental to the military mission of any National Laboratory.

TITLE I—NATIONAL LABORATORY CENTERS FOR TECHNOLOGY MANAGEMENT

SEC. 101. POLICY.

For the purposes of title I, it is the policy of Congress that—

(1) intellectual property rights in technology developed at the National Laboratories be managed so as to promote the competitiveness of United States industries;

(2) the Secretary prescribe regulations for cooperative research and development agreements and intellectual property rights arising under such agreements; and

(3) the directors of the National Laboratories devise implementing procedures consistent with the policy guidelines set forth by the Secretary.

SEC. 102. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) GENERAL AUTHORITY.—The Secretary shall prescribe regulations ensuring that the contract for the management and operation of any National Laboratory authorizes the director of such laboratory:

(1) to enter into cooperative research and development agreements and to negotiate the terms and conditions of such agreements with—

(A) other federal agencies;

(B) units of state or local government;

(C) industrial organizations including corporations, partnerships and limited partnerships, consortia, and industrial development organizations;

(D) public and private foundations;

(E) nonprofit organizations (including universities); or

(F) other persons or entities, including licensees of inventions or computer software owned by the National Laboratory manager or operator.

(2) to negotiate intellectual property licensing agreements for National Laboratory owned inventions or computer software, assigned or licensed to the National Laboratory by third parties including voluntary assignment by employees.

(b) SPECIFIC AUTHORITY.—Each director of a National Laboratory may include provisions in any cooperative research and development agreement negotiated and entered into pursuant to this section permitting such laboratory manager or operator to—

(1) accept, retain, and use funds, personnel, services, and property from collaborative parties and provide personnel, services, and property to collaborating parties;

(2) grant or agree to grant in advance to a collaborative party, intellectual property licenses, assignments, or options thereto, in any invention or computer software, made, in whole or in part, by an employee of a National Laboratory under the cooperative research and development agreement; and

(3) to the extent consistent with Department of Energy regulations, orders, and directives pertaining to conflict of interest, permit employees or former employees of a laboratory manager or operator to participate in efforts to transfer to the private sector inventions or computer software, such employees developed or made while in the service of such laboratory.

SEC. 103. CRITERIA FOR ENTERING INTO AGREEMENTS.

In determining whether to enter into a cooperative research and development agreements, the director of a National Laboratory shall determine that—

(1) facilities at the National Laboratory will be available to conduct the activities that are the subject of the cooperative research and development agreement;

(2) the activities that are the subject of the cooperative research and development agreement would not interfere with programs of the Department of Energy;

(3) the activities that are the subject of the cooperative research and development agreement would not create a future detrimental burden on the National Laboratory; and

(4) the proposed cooperative research and development agreement is consistent with applicable guidelines of the Secretary pursuant to section 102 for cooperative research and development agreements.

SEC. 104. AGREEMENT CONSIDERATIONS.

In deciding which cooperative research and development agreements to enter into, and which licenses, assignments, and options to grant, the director of a National Laboratory shall—

(1) give special consideration to small business firms and consortia involving small business firms;

(2) give preference to business units located in the United States that agree that products embodying inventions or computer software, made under the cooperative research and development agreement or produced through the use of such inventions or computer software, will be developed and manufactured substantially in the United States;

(3) in the case of any industrial organizations or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements; and

(4) provide universities the opportunity to participate in such cooperative research and development agreements when such participation will contribute to the purpose of this Act.

SEC. 105. MODIFICATION OR DISAPPROVAL OF AGREEMENT.

The Secretary may disapprove or require the modification of a cooperative research and development agreement under subsection (a). Such agreement shall provide for a 30-day period, beginning on the date the agreement is submitted to the Secretary by the director of the National Laboratory concerned, within which period such action may be taken by the Secretary. In any case in which the Secretary disapproves or requires the modification of any cooperative agreement submitted under this title, the Secretary shall transmit a written explanation of such disapproval or modification to the director of the National Laboratory concerned within 30 days after such submission. If such action is not taken within this thirty day period, the cooperative research and development agreement shall be deemed approved.

SEC. 106. LIMITATION.

The cumulative total of non-appropriated funds contracted to be received in any year under all cooperative research and development agreements entered into by the director of any National Laboratory under this Act may not exceed an amount equal to 10 percent of the annual budget of such National Laboratory, unless approved in advance by the Secretary.

SEC. 107. CONFLICTS OF INTEREST.

(a) In negotiating or entering into any cooperative research and development agreement under this section, and in negotiating or granting any license or assignment with respect to intellectual property subject to this section, the director of a National Laboratory (and any employee of a laboratory manager or operator who may be acting on behalf of the Director) shall carry out such actions—

(1) in compliance with all applicable laws and regulations;

(2) in the public interest; and

(3) not for the benefit of the director of the National Laboratory, the employee, a related person, the laboratory manager or operator, or a related entity.

(b) A director of a National Laboratory (and any employee of a laboratory manager or operator who may be acting on behalf of the Director) may not enter into negotiations—

(1) for a cooperative research and development agreement with a related person or a related entity; or

(2) for granting a license or assignment with respect to intellectual property subject to this section to a related person or a related entity until such negotiations are approved in advance by the Secretary.

(c) Any cooperative research and development agreement proposed to be entered into by a director of a National Laboratory with a related person or a related entity, and any license or assignment proposed to be granted by the director of a National Laboratory to a related person or a related entity, may not become effective until it is approved by the Secretary.

(d) For purposes of this section, the term—

(1) "related person" means a person related to a director of a National Laboratory or to an employee of such a director by marriage, blood, or otherwise, as determined by the Secretary under regulations; and

(2) "related entity" means a parent corporation of a laboratory manager or operator, a subsidiary or affiliate of a laboratory manager or operator, or any other entity that has a financial relationship with, or that is acting as an agent for, a laboratory manager or operator, as determined by the Secretary under regulations.

SEC. 108. RECORDS OF AGREEMENTS.

The director of each National Laboratory shall maintain a record of all cooperative research and development agreements entered into under this title, and shall submit annually a copy of such record to the Secretary.

SEC. 109. DUTIES AND RESPONSIBILITIES OF THE SECRETARY.

(a) The Secretary shall review all existing regulations, policy guidelines, orders, directives, procedures, and administrative processes associated with the abilities of the directors of the National Laboratories to:

(1) enter into cooperative relationships and cooperative research and development agreements with private industry or universities;

(2) undertake work-for-others; and

(3) operate user facilities.

(b) The Secretary shall review existing standards for resolving potential conflicts of interests to ensure that such standards adequately establish guidelines for situations likely to arise through the use of the authorities granted in this subtitle, including but not limited to cases where present or former National laboratory employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the Department of Energy or the laboratory manager or operator with which the employee involved is or was formerly employed).

(c) The Secretary shall—

(1) review the impact of the exchange of scientific information, scientific innovation, and commercialization resulting from cooperative research and development agreements.

(2) survey non-federal parties interested in entering into cooperative research and development agreements with the National Laboratories to determine if adequate measures exist to encourage scientific innovation and commercialization resulting from cooperative research and development agreements; and

(3) based on the results of such review and survey develop policy recommendations that shall be submitted to the Congress.

(d) The Secretary shall—

(1) formulate and carry out a comprehensive set of policy guidelines to advance the goals of this title, based on the review under subsection (a);

(2) report to Congress and the President within 90 days after the date of the enactment of this title on the status of this review; and

(3) within 180 days after the date of the enactment of this title, implement the policy guidelines under paragraph (1) that do not require regulations under section 302.

TITLE II—CENTERS FOR RESEARCH ON HIGH-TEMPERATURE SUPERCONDUCTING TECHNOLOGIES

SEC. 201. FINDINGS.

For purposes of this title, the Congress finds that:

(1) extensive research in superconducting materials is being conducted by the Department of Energy to support its programmatic activities in High Energy Physics, Magnetic Fusion Energy, Energy Storage Systems, Electric Energy Systems, and Energy Conservation, pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93-577), the Energy Reorganization Act of 1974 (P.L. 93-483), and the Department of Energy Organization Act (P.L. 95-91);

(2) recent developments in high-temperature superconducting materials hold great promise for highly efficient energy storage and transmission, medical diagnostics, magnets for physics research and fusion reactors; and smaller super-computers;

(3) if the United States is a world leader in basic research on high-temperature superconducting materials, then programs supporting this research at the Department of Defense, the National Science Foundation, and the Department of Energy should be maintained and strengthened;

(4) there is intense international interest in the commercialization of high-temperature superconducting materials and the key to success in its commercialization lies in the rapid development of these materials and the identification of their applications; and

(5) the National Laboratories have demonstrated expertise in high-temperature superconductivity research and have a proven record in research in enabling technologies

which can benefit the industrial sector efforts in the commercialization of new technologies and product development.

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to provide for research on critical enabling technologies to assist United States industry in the commercialization of high-temperature superconductors;

(2) to provide national organization and coordination in the research, development and commercialization of high-temperature superconductors; and

(3) to encourage private industry, university, and National Laboratory interaction through centers for research on high-temperature superconductivity at the National Laboratories.

SEC. 203. ESTABLISHMENT OF THE HIGH-TEMPERATURE SUPERCONDUCTOR RESEARCH INITIATIVE.

The Secretary of Energy shall initiate and carry out a cooperative program of research on enabling high-temperature superconductor technology and on the practical applications of such technology (here-in-after referred to in this title as the "Initiative").

SEC. 204. COUNCIL ON ENABLING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary of Energy shall form the "Council for Research on Enabling Technologies" (here-in-after referred to in this title as the "Council") that shall be composed or representatives of appropriate government agencies, universities, and industry to provide advice to the Secretary in setting goals and strategies for the Initiative.

(b) DUTIES.—The Council shall recommend guidelines for the release of the technical findings and developments made by the cooperative research centers established pursuant to subsection (b). Guidelines for releasing technical findings set forth by the Council shall be consistent with guidelines set forth by affected Federal agencies.

(c) AVOIDANCE OF DUPLICATION.—The Council shall keep appraised of activities taking place at the existing Research Centers on Superconductivity and Superconductivity Pilot Centers. In carrying out its responsibilities under subsection (a), the Council shall recommend to the Secretary and such Centers measures to ensure that unnecessarily duplicative research or activities are not being carried out at these Centers.

SEC. 205. CENTERS FOR RESEARCH ON ENABLING TECHNOLOGIES.

(a) The Secretary shall establish cooperative research centers in enabling technologies for high-temperature superconducting materials and applications (here-in-after referred to in this title as "Centers") at one or more National Laboratories with appropriate university and private industry participants.

(b) The Centers shall be located at National Laboratories that demonstrate expertise in—

(1) high-temperature superconductivity research; and

(2) research in associated technologies including—

(A) thin film and bulk ceramic synthesis and processing; and

(B) characterization of physical, chemical, and structural properties in materials.

SEC. 206. PARTICIPATION BY THE NATIONAL LABORATORIES.

(a) MISSION OF NATIONAL LABORATORIES.—The Secretary shall ensure that the National Laboratories may participate in the Initiative, to the extent that such participation is consistent with the purposes of this Act.

(b) AGREEMENTS.—The Secretary shall enter into such contracts and agreements, with other Federal agencies, with U.S. private industrial or research organizations, or consortia, or with any college or university, as may be necessary to provide for the active participation of the National Laboratories in the Initiative.

(c) REQUIREMENTS.—The Initiative shall include provisions for one or more National Laboratory to conduct research, experimental, and development activities relating to high-temperature superconductivity. Such activities may include research, experimental, and development activities in associated technologies (including thin film and bulk ceramic synthesis and processing and the characterization of physical, chemical, and structural properties in materials).

SEC. 207. PERSONNEL EXCHANGES.

The Initiative may include provisions for temporary exchanges of personnel between any domestic firm or university referred to in this title and the National Laboratories that are participating in the Initiative. The exchange of personnel may be subject to such restrictions, limitations, terms and conditions as the Secretary considers necessary in the interest of national security.

SEC. 208. OTHER DEPARTMENT OF ENERGY RESOURCES.

(a) AVAILABILITY OF RESOURCES.—Subject to subsection (b), the Secretary may make available to other departments or agencies of the Federal Government, and to any participant in research and development projects under the Initiative, any facilities, personnel, equipment, services, and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative.

(b) REIMBURSEMENT.—At his discretion, the Secretary may, to the extent practicable, make facilities available under this section only to the extent that the cost of the use of such facilities is reimbursed by the user.

SEC. 209. BUDGETING FOR HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH.

To the extent the Secretary considers appropriate and necessary, the Secretary, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President for fiscal years 1990, 1991, 1992, 1993, 1994, and 1995 under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of high-temperature superconductivity.

SEC. 210. COST-SHARING AGREEMENTS.

(a) PERMITTED PROVISIONS.—The Secretary shall, pursuant to title I, ensure that contracts for the operation of National Laboratories provide the director of each National Laboratory that is participating in the Initiative or the contractor operating any such National Laboratory the authority to receive funds under any cooperative research and development agreement entered into with a domestic firm or university under the Initiative.

(b) CONSIDERATIONS.—The director of each National Laboratory that is participating in the Initiative, in determining the type and extent of its laboratory participation in carrying out work for others, shall undertake such work only when facilities are available and their use would not interfere with Department of Energy programs, and such nor create a future detrimental burden on the National Laboratory.

(c) ADDITIONAL LIMITATION.—Subject to section 106, no National Laboratory may receive more than $10,000,000 of nonappropriated funds, or the equivalent of such amount, from any person under any cooperative research and development agreement entered into under the Initiative, except to the extent approved in advance by the Secretary.

SEC. 211. RECORD OF AGREEMENTS.

Each National Laboratory shall maintain a record of all agreements entered into under this subtitle and submit such record to the Secretary on an annual basis.

SEC. 212. AVOIDANCE OF DUPLICATION.

In carrying out the Initiative, the Secretary shall ensure that unnecessarily duplicative research is not performed at the research facilities of the Department of Energy (including the National Laboratories) that are participating in the Initiative.

TITLE III—GENERAL PROVISIONS

SEC. 301. AUTHORITY OF THE SECRETARY.

(a) Nothing in this Act may be construed to affect or limit—

(1) the authority of the Secretary to control all classified or sensitive (as defined pursuant to section 148 of the Atomic Energy Act of 1954, as amended) research contracts and agreements to which the Department of Energy or a National Laboratory is a party; or

(2) the vesting of title in the Department of Energy of all intellectual property that is made under classified or sensitive (as defined pursuant to section 148 of the Atomic Energy Act of 1954, as amended) research in a National Laboratory or in a facility of a collaborative party under a cooperative research and development agreement and that is classified or sensitive.

SEC. 302. REGULATIONS.

(a) Within 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for implementing sections 102, 303, and 304. In prescribing such regulations the Secretary shall provide opportunity for public comment on proposed regulations.

(b) Any such regulations shall be guided by the purpose of this Act.

(c) Before the Secretary issues regulations under this section, the Secretary shall consult with the Office of Federal Procurement Policy to review such regulations for consistency with this Act.

SEC. 303. PATENT OWNERSHIP AND THE CONDITIONS OF OWNERSHIP.

(a) DISPOSAL OF TITLE TO INVENTIONS.—Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to any subject invention made in the performance of a Department of Energy contract to manage or operate any National Laboratory in the same manner as applied to small business and nonprofit organizations under Chapter 18 of title 35, United States Code, except that a condition of such disposal shall be the retention by the United States of a royalty-free license to use such subject invention for United States Government purposes.

(b) RETENTION OF TITLE BY UNITED STATES.—(1) Whenever a manager, operator or employee of a National Laboratory under a contract makes a subject invention to which the Secretary has determined (at the time of contracting for the management

and operation of the National Laboratory) to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code, the title to the subject invention shall be retained by the Government unless the National Laboratory at which the invention is made requests title to such invention and the Secretary does not notify the director of the National Laboratory—

(A) within 90 days after receipt of such request that the subject invention is covered by a determination under such section 202(a)(ii) of title 35, United States Code; or

(B) within 150 days after receipt of such request that the subject invention has been classified or has been designated sensitive technical information as authorized by section 148 of the Atomic Energy Act of 1954.

(2) Whenever a manager or operator of a National Laboratory makes a subject invention to which the Secretary has determined (at the time of contracting for the management and operation of the National Laboratory) to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the subject invention shall be retained by the Government unless the director of the National Laboratory at which the invention is made requests title to such invention and the Secretary does not notify the director of the National Laboratory—

(A) within 90 days after receipt of such request that the subject invention is covered by a determination under such subsection 202(a)(iv) of title 35, United States Code; and

(B) within 150 days after receipt of such request that the subject invention has been classified or has been designated sensitive technical information as authorized by section 148 of the Atomic Energy Act of 1954.

(3) The Secretary may not use export control statutes or regulations as the sole basis for refusing a request for title to a subject invention.

(4) If the Secretary does not notify the director of the National Laboratory that has requested title to a subject invention in accordance with this section, such National Laboratory shall be deemed to have elected title to the invention under the Government-wide contractor patentable ownership provisions of Chapter 18 of title 35, United States Code.

(c) The Secretary may, by rule with notice and public comment under 5 U.S.C. 553, exempt from the operation of subsection (b) any category of inventions that he determines is directly related to research and development on the design, manufacture, or utilization of any nuclear weapon or component.

SEC. 304. INTELLECTUAL PROPERTY.

(a) CONTRACT PROVISIONS.—Any Department of Energy contract for the management or operation of a National Laboratory shall provide—

(1) except as otherwise provided in the Act, for the ownership by the Laboratory manager or operator of any intellectual property made by an employee of such manager or operator;

(2) that any royalties or income that is earned by the manager or operator of a National Laboratory from the licensing of laboratory-owned intellectual property rights in any fiscal year shall be used as authorized under subsection 202(c)(7)(E) of title 35, United States Code and Section 13(a)(1)(B)(i) through (iv) and section 13(a)(2) through (4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B) (i)-(iv) and 3710c(a)(2)-(4)); and

(3) that the costs of obtaining and protecting intellectual property rights in any invention or computer software, owned by the National Laboratory shall be paid for by the laboratory manager or operator as a cost shared expense under a cooperative research and development agreement.

(b) The Secretary shall ensure that all intellectual property granted to a laboratory manager or operator shall be subject to a royalty-free license to use and reproduce such intellectual property for United States Government purposes.

(c) The Secretary shall establish procedures to have the management of intellectual property rights, including procurement, retention, and licensing of such rights, in connection with laboratory-owned inventions and computer software, be the responsibility of the director of the National Laboratory at which the invention or computer software are made, developed or assigned.

(d) The Secretary shall prescribe regulations, orders, or directives prohibiting any laboratory manager or operator who has received title to intellectual property under this section from receiving money or other benefit from the use or licensing of such property for the benefit of the laboratory manager or operator, except for research and development associated with activities at the National Laboratory to promote technology transfer as authorized by law, or in special circumstances, as may be approved by the appropriate Department of Energy Operations Office manager.

(e) COMPENSATION.—(1) Subject to paragraph (2), in return for retaining title to any intellectual property rights in any invention or discovery made in performance of a Department of Energy cooperative research and development agreement, the manager or operator of any National Laboratory shall pay to the United States reasonable compensation based on the value of the technology transferred. The amount of the payment arising as a result of the transfer shall be set by an arbitration board consisting of one member selected by the manager or operator of the National Laboratory, one member selected by the Secretary, and one member jointly selected by the manager or operator and the Secretary. In determining the payment, the arbitration boards shall set an amount that is proportionate with the research and development costs funded by the United States. The arbitration board shall have discretion to permit the payment to be made in installments according to the extent the manager or operator uses or employs the intellectual property.

(2) Paragraph (1) shall not apply if:

(A) the contract manager and operator is operating the National Laboratory for no profit or fee beyond expenses; and

(B) such contract manager or operator is offering the intellectual property for fair market value and any value or royalties the contractor derives from the intellectual property will be returned to the National Laboratory of the Federal Treasury in accordance with Section 202(c)(7)(E) of title 35, United States Code.

SEC. 305. MARCH-IN RIGHTS.

The Secretary may require the licensing to third parties of all intellectual property owned by the laboratory manager or operator that is subject to the provisions of this Act in the same manner as provided under section 203 of title 35, United States Code.

SEC. 306. OVERSIGHT.

(a) The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities of the National Laboratories under this Act.

(b) Nothing in this Act diminishes the responsibility of the Secretary to keep Congress fully and currently informed or the right of Congress to review and receive information with respect to any agreement, license, or intellectual property subject to this Act.

SEC. 307. COPYRIGHTS AND PATENTS.

This title does not confer any new authority on the Department of Energy to obtain a copyright or a patent.

SEC. 308. LIABILITY OF THE UNITED STATES.

The United States may not be held liable for a claim brought by any person alleging injury resulting from a product embodying intellectual property or from a product produced through the use of intellectual property acquired under this Act. The preceding sentence does not apply to such a product if the product is produced by the Federal Government or at the request of the Federal Government.

SEC. 309. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act (regardless of whether regulations have been promulgated under section 302). The Secretary shall immediately enter into negotiations with each laboratory manager or operator to amend all existing contracts for the operation of the National Laboratories, to reflect this Act.

NATIONAL LABORATORY COOPERATIVE RESEARCH INITIATIVES ACT

Principally, this legislation would change the way technology is managed at the DOE—requiring DOE to treat all laboratories the same—and really enabling the labs to conduct cooperative R&D that will lead to meaningful technology transfer. It would restore the weapons-related "exception" to a real exceptional circumstances and not an excuse to tie up a large portion of federal R&D.

The Legislation requires:

1. Bayh-Dole Act tech-transfer directives to be applied to all laboratories, regardless of the nature of their contractor—except for naval nuclear propulsion labs.

2. Restoration of original congressional intent re: the "weapons-related exemption." S. 1480 requires DOE to either classify or designate as sensitive data, an invention within 3 months or title will vest with the contractor-operator. This is consistent with past National Security Council (NSC) recommendations, and consistent with DOD regulations for the DOD laboratories.

It was not Congress' intent for the weapons-related exception to disqualify the entire laboratory, however, this has been DOE's position.

3. The contractor-operator at the Laboratories be given the authority to enter into cooperative research agreements, subject to a 30-day right of refusal, or modification by DOE.

4. The contractor-operator is to be further obligated to license the inventions out so innovations can be commercially developed. The federal government would retain both a royalty-free license to all such innovations, and "march-in" rights to assure appropriate development.

5. Personal exchanges to be allowed between private industry, industry-university consortia and the national labs.

6. DOE to establish a cooperative research program for research on enabling technologies for high-temperature superconducting applications. Centers for research would be established, along with a Council, made up of industry, university, and lab representatives, to guide the Centers.

DEPARTMENT OF ENERGY NATIONAL LABORATORIES COOPERATIVE RESEARCH INITIATIVES ACT—SECTION-BY-SECTION SUMMARY

Sec. 2. Definitions.—Covering terms used throughout the Act. Labs covered by the Act are listed and include all government-owned, contractor operated (GOCO's) DOE laboratories.

Sec. 3. Findings.—Lists the basic rational for the legislation.

Sec. 4. Purposes.—The bill is intended to enhance collaboration between labs and industry, establish tech transfer as a mission of the labs, and get better use out of our research investment in the labs.

Sec. 5. Directive.—Directs Secretary to carry out the tech transfer mission this bill calls for, but not to the detriment of the labs' military missions.

TITLE 1—NATIONAL LABS CENTERS FOR TECHNOLOGY MANAGEMENT

Sec. 101. Policy.—Outlines policy objectives.

Sec. 102. Cooperative R&D Agreements.—Directs Secretary to delegate authority to Labs to negotiate and enter into cooperative agreements, as well as intellectual property right arrangements. Also, labs are to be allowed to share personnel and equipment as part of such agreements.

Sec. 103. Criteria for Entering Into Agreements.—Labs must assure that agreements they enter into won't interfere with DOE programs, can be performed in available facilities, won't create future detrimental burdens for the labs, and are consistent with Secretary's guidelines set forth in Sec. 102.

Sec. 104. Agreement Considerations.—In choosing between agreements, the Labs are directed to give special preference to small businesses, U.S. firms, and (if foreign) firms from countries similarly accommodating to U.S. firms, and universities.

Sec. 105. Modification or Disapproval.—Secretary will have 30 days, after agreement is submitted to DOE, to modify or disapprove proposed agreement. Otherwise agreement becomes effective.

Sec. 106. Limitation.—Total non-federal funds a lab may receive from cooperative R&D agreements cannot exceed 10% of the lab's budget, unless the Secretary approves something different.

Sec. 107. Conflict of Interest.—Negotiations of intellectual property rights or cooperative R&D agreements must be in the public interest and not benefit lab director. Lab personnel also prohibited from working with relatives, or parent companies and subsidiaries of the contractor-operator, unless Secretary approves.

Sec. 108. Records of Agreements.—Labs are to keep records of agreements and report to Secretary annually.

Sec. 109. Duties & Responsibilities of Secretary.—Secretary directed to review how DOE policies: effect the ability of labs to conduct cooperative research with outside parties; resolve conflicts of interest; and impact innovation, research and information exchange. Secretary also directed to implement guidelines to advance the policies of the title, and report within 90 days on status of review and within 180 days implement guidelines that don't require regulations.

TITLE 2—CENTERS ON RESEARCH ON HIGH-TEMPERATURE SUPERCONDUCTING TECHNOLOGIES

Sec. 201. Findings.—Notes the extensive research on high-temperature superconductivity (HTS) being done at the national labs, and the promise such research holds.

Sec. 202. Purposes.—The title is intended to provide for research on critical enabling technologies, for national organization and coordination in R&D and commercialization, and for improved industry-university-Laboratory interaction.

Sec. 203. Establishment of HTS Research Initiative.—DOE directed to carry out cooperative R&D effort.

Sec. 204. Council on Enabling Technologies.—Secretary directed to form council, representative of industry, universities, and government, which will set goals and strategies for the HTS Initiative, and to oversee the Centers created in section 205. Council also to set guidelines for release of technical findings of the Centers, and assure there is no unnecessary duplication of activities.

Sec. 205. Centers for Research on Enabling Technologies.—Secretary to establish cooperative R&D Centers at one or more national labs that have expertise in HTS.

Sec. 206. Participation by the National Labs.—Secretary to assure labs can participate in the Initiative, enter into agreements with outside parties as necessary, and conduct specific research for the Initiative.

Sec. 207. Personnel Exchanges.—Initiative may include temporary exchanges, but are subject to national security considerations.

Sec. 208. Other DOE Resources.—Use of facilities and equipment is also allowed to the extent that costs of use are reimbursed by the user.

Sec. 209. Budgeting for HTS Research.—Secretary to provide for HTS programs in annual budget, to the extent deemed appropriate.

Sec. 210. Cost-Sharing Agreements.—Contract between DOE and manager to operate labs must allow for labs to accept funds from cooperative R&D under Initiative. Labs directed to undertake work only when facilities are available and use doesn't interfere with DOE programs. Labs also limited to receiving no more than $10 million under any single agreement that is part of this initiative.

Sec. 211. Record of Agreements.—Labs required to keep records of agreements and report to Secretary annually.

Sec. 212. Avoidance of Duplication.—Secretary to assure no unnecessary R&D is conducted at DOE under Initiative.

TITLE 3—GENERAL PROVISIONS

Sec. 301. Authority of Secretary.—Clarifies that nothing in this Act limits the current law authority of the Secretary to control classified or sensitive research to which the national labs are a party. Also, nothing limits the vesting of title in the DOE of intellectual property that is made under classified or sensitive research at a lab, and which is itself classified or sensitive.

Sec. 302. Regulations.—Regs implementing sections on cooperative R&D, patent ownership, and intellectual property are to be prescribed within 180 days of enactment. DOE must allow the Office of Federal Procurement Policy (OFPP) to review the regs for consistency with the Act before issuing the regs.

Sec. 303. Patent Ownership & Conditions of Ownership.—This section makes applicable to all national laboratory contractors the same rights to elect title to inventions developed under federally funded R&D as is already provided to universities, non-profits, and small for-profit business contractors under current law. The government would always retain a royalty-free license to use the invention.

The DOE may still retain title to inventions for "exceptional circumstances," as specified under current law (Sec. 202(a)(ii), Title 35 USC), and for classified or sensitive inventions made under a funding agreement that includes a DOE lab doing primarily naval nuclear propulsion or weapons work, as specified under the current law (Sec. 202(a)(iv), Title 35 USC).

Title to subject inventions are retained by the government unless the national lab involved requests title. The Secretary has 90 days after the request to notify the lab of an exceptional circumstance determination, or of classified or sensitive designation for which the government may keep title. Otherwise, the requesting national laboratory shall be deemed to have elected title.

This section also prohibits DOE from using export control statutes as the sole basis for refusing a request for title of a national lab invention, but allows the Secretary to exempt anything directly related to R&D on nuclear weapons.

Sec. 304. Intellectual Property.—Intellectual property arising from work at the national labs is to be owned by the labs responsible for it. Any royalties from such intellectual property accruing to the labs must be used to further the mission of the labs. The costs of obtaining commercial protections shall be borne by the laboratory as a cost-shared expense. The government shall always retain a royalty-free license.

Secretary directed to see that management of intellectual property be the responsibility of the lab, and that contractors who get title do not profit from licensing it.

In return for title, for-profit contractors must compensate government for the government's investment, unless the rights to use intellectual property are sold at a fair market value, and the proceeds are returned to the lab or the Treasury.

Sec. 305. March-in Rights.—Secretary may require licensing of intellectual property to 3rd party if a lab is sitting on the technology.

Sec. 306. Oversight.—Secretary shall conduct regular audits and keep Congress fully informed.

Sec. 307. Copyrights & Patents.—Clarifies that this title does not confer any new authority on DOE to obtain a copyright or a patent.

Sec. 308. Effective Date.—180 days after enactment, but Secretary directed to begin immediately adjusting contracts with labs as directed.●

By Mr. CRANSTON (for himself and Mr. BOSCHWITZ):

S. 551. A bill to amend the Internal Revenue Code of 1986 to restore a capital gains tax differential, and for other purposes; to the Committee on Finance.

RESTORING CAPITAL GAINS TAX DIFFERENTIAL

Mr. CRANSTON. Mr. President, I rise today to introduce legislation to reinstate a capital gains differential. Enactment of this legislation, which will stimulate investment and create

jobs, is essential to the growth and productivity of our economy.

The capital gains issue is not a new one—it has been the subject of vigorous debate for over a decade. Legislation to lower the capital gains tax is not new either—it has been around since soon after the Tax Reform Act of 1986 eliminated the differential. President Bush has made lowering the capital gains tax a major goal of his administration and there are currently several bills pending in the Senate to change the taxation of capital gains.

This bill, however, is new. My bill takes a long-term approach to the capital gains issue unlike any other proposal. It is based upon a sliding scale: Assets held less than 1 year would get no tax benefit, assets held 1 to 3 years would qualify for a 10-percent exclusion, assets held 3 to 5 years would qualify for a 30-percent exclusion, and assets held over 5 years would qualify for a 60-percent exclusion. Thus, only investors who are willing to commit long-term, patient capital would receive significant benefits. Collectibles would not qualify for the exclusion. This bill also differs from other approaches in that 50 percent of the excluded gain would be added as a preference item for the alternative minimum tax. Another major difference in my bill is that taxpayers with adjusted gross income under $25,000—joint return—would receive a 100-percent exclusion for assets held over 5 years.

Mr. President, I have long been a supporter of a capital gains differential. I was a leader in lowering the rate in 1978 and in 1986 I fought to keep a low rate. The issue of capital gains taxation is not a Republican versus Democratic issue, and it's not a rich versus poor issue. The issue is what is best for the health of our economy; what will give taxpayers an incentive to save more and to invest more in long-term, risky projects? The answer, in my opinion, is a lower capital gains tax.

My bill goes to the hearts of America's entrepreneurial spirit. It promotes enterprise and innovation. It promotes investment and jobs. The question is not "Can we afford lower capital gains taxes?". The question is, "How can we afford not to lower capital gains taxes?". A capital gains differential will have economic significance for the U.S. savings rate, the cost of capital, our international competitiveness, and entrepreneurialism.

I need not remind my colleagues of the international trade competition we face, particularly from the Pacific rim nations. We live in a global economy and if we are to compete in that economy, we cannot handicap America's entrepreneurs—we must encourage them. I don't want to imply that there is only one cause for our poor trade position, but the cost of capital is a major factor. It's a fact that the cost of capital is lower in our competitors' nations. A lower cost of capital promotes higher investment. This increases a nation's capital stock and provides more capital per worker, greater productivity, and growth in a country's standard of living. The capital gains tax is an important element of the cost of capital. Thus, it is particularly noteworthy that South Korea, Taiwan, Hong Kong, and Singapore do not tax long-term capital gains at all. The American Council for Capital Formation is currently undertaking an economic study of the direct correlation between capital gains taxation and the cost of capital.

A capital gains differential is particularly important to the competitiveness of our electronics industry. The electronics industry, which is the largest manufacturing sector in the United States, employs over 2.5 million people—605,000 in my home State of California alone. The 1978 and 1981 cuts in the capital gains tax were of tremendous benefit of this leading edge industry. The cuts helped spur venture capital and the creation of hundreds of high-technology companies. In fact, almost half of the American Electronics Association's 3,500 members were formed since 1978 and the industry is responsible for over 1 million new jobs between 1978 and 1984. These small startups need every ounce of capital they can get, and if they can't get it from American investors, often they are forced to turn to foreign sources. In addition, because these firms can't pay big salaries, they use stock options to attract quality people.

Mr. President, I would like to take a moment to address some of the most common arguments against lowering the capital gains tax: That it is a "giveaway to the rich," that it is a revenue loser, and that the majority of venture capital comes from nontaxable sources.

First of all, wealthy people are not the only ones with capital gains. In 1984 and 1985, taxpayers with incomes of $50,000 or less reported over 20 percent of all long-term capital gains. More than 45 million Americans currently hold securities directly or through mutual funds that are subject to capital gains taxation. These investors have median household income of under $40,000 and represent one in five adult citizens. Anyone who owns or inherits a house will have a capital gain—most likely a very sizable one. Homeownership is part of the American dream—we must do more to encourage it, not penalize it. Similarly, anyone who owns or inherits a family farm will have a capital gain. Under my bill, wealthy collectors of items such as art or gems will not get any tax benefit. In fact, under my bill, the greatest benefit will go to low-income taxpayers: Those with joint income under $25,000 will pay no tax on long-term gains. It is interesting to note that while the effective tax rate on capital gains increased 75 percent for the highest earners as a result of the Tax Reform Act of 1986, it tripled for low-income earners.

I disagree with those that say lowering the capital gains tax is a revenue loser. The same argument was made in 1978 and 1981, but the facts have proved otherwise. According to the CBO, revenue from capital gains jumped from $8.5 billion in 1978 to $23.7 billion in 1985—a 179-percent increase. Inflation and GNP growth alone cannot explain that increase. Clearly, the lower tax rate had something to do with it. In addition, it is important to remember that the tax on capital gains is a voluntary one, as people are free to choose if and when they sell their assets. A lower tax, by preventing the "lock-in" effect, will increase revenue and foster more productive uses of capital.

Opponents of a lower rate on capital gains claim that a large proportion of organized venture capital comes from nontaxable sources. This is indeed true, but there is more to the story. According to a study done at the University of New Hampshire, more new technology based firms raise equity type capital from private individuals than from any other source—including venture capital funds. In fact, when the total financing is less than $1 million, private individuals are the primary source of outside equity type capital. More importantly, private individuals tend to invest earlier in the life of high-tech startups than do other sources of capital.

Reducing the capital gains tax will promote savings and investment, small businesses and entrepreneurship, jobs and growth. Clearly, then, if we are truly interested in encouraging long-term economic prosperity, we must include a lowering of the capital gains tax in any policy package.

Mr. President, I am fully aware that the issue of capital gains taxation is very controversial. But I think the time has come to move beyond the rhetoric and begin a substantive debate. Economists who have different revenue projections should sit down with one another, explain their methods, and try to establish a common economic model. Those of us who support lowering the tax should sit down and try to reach a consensus, and those who oppose the lowering of the tax should join us in debating the issue on its merits.

We must shift our horizons and stop making American enterprise the enemy. We must support long-term investment, encourage cutting edge technology, and reinvigorate our belief that America is ready and capable of meeting the challenges before us.

I urge my colleagues to review this legislation carefully and join me in this effort to promote the long-term health of our economy.

I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

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

S. 551

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

SECTION 1. RESTORATION OF CAPITAL GAINS TAX DIFFERENTIAL.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by inserting after section 1201 the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) DEDUCTION ALLOWED.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 60 percent of the lesser of—

"(A) the net capital gain, or

"(B) the qualified 5-year net capital gain, plus

"(2) 30 percent of the excess (if any) of—

"(A) the net capital gain, over

"(B) the qualified 3-year net capital gain, reduced by the amount taken into account under paragraph (1), plus

"(3) 10 percent of the excess (if any) of—

"(A) the net capital gain, over

"(B) the amounts taken into account under paragraphs (1) and (2).

"(b) 100 PERCENT EXCLUSION WHEN TAXPAYER HAS ADJUSTED GROSS INCOME OF LESS THAN $25,000.—If the adjusted gross income of the taxpayer (without regard to this subsection) is less than $25,000 ($12,500 in the case of married individuals filing separately), subsection (a)(1) shall be applied by substituting '100 percent' for '60 percent'.

"(c) QUALIFIED NET CAPITAL GAIN.—For purposes of subsection (a)—

"(1) QUALIFIED 5-YEAR NET CAPITAL GAIN.—The term 'qualified 5-year net capital gain' means the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for at least 5 years at the time of the sale or exchange were taken into account.

"(2) QUALIFIED 3-YEAR NET CAPITAL GAIN.—The term 'qualified 3-year net capital gain' means the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for at least 3 years but less than 5 years at the time of the sale or exchange were taken into account.

"(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) CORPORATIONS.—Subsection (a) of section 1201 of the Internal Revenue Code of 1986 (relating to the alternative tax for corporations) is amended to read as follows:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) or (b), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 14 percent of the lesser of—

"(A) the net capital gain, or

"(B) qualified 5-year net capital gain, plus

"(3) a tax of 24 percent of the excess (if any) of—

"(A) the net capital gain, reduced by the amount taken into account under paragraph (1), over

"(B) the qualified 3-year net capital gain, plus

"(4) a tax of 31 percent of the net capital gain, reduced by the amounts taken into account under paragraphs (1) and (2).

For purposes of this subsection, the terms 'qualified 5-year net capital gain' and 'qualified 3-year net capital gain' have the meanings given such terms by section 1202(c)."

(c) CAPITAL ASSETS NOT TO INCLUDE COLLECTIBLES.—Section 1221 of the Internal Revenue Code of 1986 is amended by—

(1) by striking out the period at the end of paragraph (5) and inserting "; and", and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) any collectible (within the meaning of section 408(m)(2)) held by a person other than a corporation."

(d) MINIMUM TAX.—Section 57(a) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS.—In the case of a taxpayer other than a corporation, 50 percent of the amount of the deduction under section 1202 for the taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Section 1 of the Internal Revenue Code of 1986 is amended by striking out subsection (j).

(2) Section 62(a) of such Code is amended by adding after paragraph (12) the following new paragraph:

"(13) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(3) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "100 percent minus the percentage described in each of the paragraphs under section 1202(a), whichever is applicable, of" before "the amount of gain".

(4) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed."

(5) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraphs (1)".

(6)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(7) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(8) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account."

(9) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(j), 1201, and 1211" and inserting in lieu thereof "1201, 1202, and 1211".

(10) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting in lieu thereof "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(11) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and" after "except that".

(12) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(13) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" in paragraph (1) and inserting in lieu thereof "34 percent (or to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(14) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gains."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales or exchanges after December 31, 1989.

(2) FISCAL YEAR TAXPAYERS.—The Secretary of the Treasury shall provide regulations for the application of section 1201(a)

to a taxable year beginning before January 1, 1990, and ending after December 31, 1989.

By Mr. BRADLEY (for himself, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. SPECTER, Mr. LAUTENBERG, Mr. DOMENICI, Mr. KENNEDY, and Mr. PELL):

S. 552. A bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RESTORING BALANCE AMONG SOURCES OF SUPPLY FOR THE NATION'S SWEETENER NEEDS

● Mr. BRADLEY. Mr. President, today I am pleased to introduce the Sugar Supply Stabilization Act, along with my colleagues Senators ROTH, MOYNIHAN, CHAFEE, SPECTER, LAUTENBERG, DOMENICI, KENNEDY, and PELL. This legislation will reform the Government's price support program for domestic sugar production. Although this program is hailed by sugar producers as a no-cost success, it is neither no-cost nor a success.

Today's Sugar Program was designed to provide a safety net for farmers. Instead, it has guaranteed all U.S. sugar and corn sweetener producers extraordinary profits. Raw sugar is currently selling at about 22 cents a pound in the United States, over three times the current world price. The guaranteed higher price for sugar translates into an average annual subsidy of approximately $170,000 per sugar grower. In the case of some growers, this subsidy totals millions of dollars.

The Sugar Program has also caused higher prices for high fructose corn syrup [HFCS]. That has given an additional $1.2 billion per year in profits to a handful of domestic corn sweetener producers. This is money taken straight from the pockets of American consumers who pay higher food bills every month.

Americans have shelled out an extra $3 billion a year to about 10,000 sugar growers and a few corn sweetener producers. This excess cost for sugar is a burden on all Americans. But the burden weighs most heavily on the poor, since they spend much of their income for basic foods. Our no-cost Sugar Program costs consumers billions of dollars.

U.S. workers also do not escape the adverse effects of this program. Since 1981, 10 U.S. sugar refineries, used to refine imported raw sugar, have closed their doors; more than 2,000 American workers in those companies have lost their jobs. When U.S. quotas inflated sugar prices, these refiners couldn't compete with foreign competitors who have access to sugar at far lower prices. Dock workers have also suffered as sugar imports dropped 80 percent over the last 5 years—the direct result of our sugar policy.

The U.S. food and beverage manufacturing industries employ hundreds of thousands of people—the chocolate and confectioners industries alone employ more than 60,000 workers. These jobs are threatened by competition from foreign manufacturers who have access to sugar at the world market price—not America's inflated price. More and more of our food companies are relocating their plants outside this country so that they, too, can have access to cheaper sugar prices. The no-cost U.S. Sugar Program is costing many American workers their very livelihoods.

But U.S. consumers and workers are not the only ones who suffer from our sugar policy. This policy directly endangers our national security interests. Important strategic allies and neighbors, such as the Philippines and Caribbean and Latin American nations, have also been harmed by our misguided sugar program. Since 1981, the amount of sugar allowed in the United States has dropped from 5 million tons to a little more than 1 million tons. The quota would be even lower if it were not for the adverse effects that last year's drought had no sugar beet growers. In fact, prior to the drought, the U.S. Department of Agriculture projected that domestic sugar producers would reap a record harvest. As the barriers against sugar imports have gotten higher, our no-cost Sugar Program keeps impoverished some of our most needy allies, who even now are unable to bear the burden of excessive foreign debt.

Mr. President, the Sugar Supply Stabilization Act will create a more competitive market for sugar in America. This new market—and lower prices—will help consumers, labor, and domestic industry. The act will reduce the sugar support price from 18 to 12 cents by 1992. At the same time, 500,000 more tons of sugar will be permitted to enter the country each year from 1990 to 1993.

This gradual transition will facilitate adjustment in the domestic sugar-producing industry. The final price support level is sufficient to serve as a safety net for efficient producers. Likewise, this legislation will slowly and steadily increase the amount of sugar allowed into this country from the current annual rate of approximately 1 million tons to an annual rate of at least 3 million tons in the early 1990's, which is approximately the same level that prevailed in 1982 when quotas were first imposed.

With this bill, the decrease in the sugar support price and the market price reduction which will surely follow less domestic sweetener production and an increase in domestic demand for sugar. Our estimates indicate that this market response will be sufficient to absorb the quota increase called for in this bill. However, should the Secretary project a cost to the Federal Government from the mandated increases, because of a surplus of supply, the Secretary can delay raising the quota level. The goal, clearly, is to maintain a sugar program that truly does not burden the American taxpayer.

In contrast, the current Sugar Program depends on quota reductions to prevent loan forfeitures and cost to the Government. As I've stated, imports are now 1 million ton, down from 5 million tons in 1981. Once this quota goes to zero—which seems inevitable within the next few years—the no-cost veil of today's program will vanish.

The current Sugar Program has failed. Congress must face up to this fact and take the necessary actions to reform this program. Sugar is a minor crop in the United States. That is why it is ludicrous to benefit 10,000 growers at the expense of U.S. strategic interests, hundreds of thousands of American workers, and hundreds of millions of American consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in full at the conclusion of my remarks.

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

S. 552

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 "Sugar Supply Stabilization Act".

SEC. 2. SUGAR PRICE SUPPORT.

(a) AMENDMENT TO THE FOOD SECURITY ACT OF 1985.—Section 901 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1443) is amended by striking out "Effective only for the 1986 through 1990 crops of sugar beets and sugarcane, section" and by inserting in lieu thereof "Section".

(b) AMENDMENT TO THE AGRICULTURAL ACT OF 1949.—Section 201(j) of the Agricultural Act of 1949 (7 U.S.C. 1446(j)) is amended—

(1) in paragraph (1) by striking out "of the 1986 through 1990 crops" and inserting in lieu thereof "crop";

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The Secretary shall establish the loan level for each of the 1989 and subsequent crops at the loan level established for the previous crop reduced by 1.5 cents; except that in no event shall the loan level be established at less than 12 cents per pound for raw cane sugar."; and

(3) by striking out paragraph (4) and redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively

SEC. 3. SUGAR IMPORT QUOTAS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any limitation imposed under any other provision of Federal law on the total quantity of sugars, syrups, and molasses described in subheadings 1701.11, 1701.12, 1701.91.20, 1701.99, 1702.90.30, 1702.90.40, 1806.10.40. or 2106.90.10 of the Harmonized Tariff Schedule of the United States that may be entered during calendar year 1990, 1991, 1992, or 1993, shall be established at—

(1) a level that equals or exceeds the sum of the amount of such limitation for the calendar year preceding such calendar year, plus 500,000 short tons, raw value; but only if the President determines that such level will give due consideration to the interests of materially affected contracting parties to the General Agreement on Tariffs and Trade; or

(2) such other maximum level as the Secretary of Agriculture determines will permit him to continue to operate the sugar program at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation; but only if the President determines that such level will give due consideration to the interests of materially affected contracting parties to the General Agreement on Tariffs and Trade.

(b) CONFORMING AMENDMENT.—Subdivision (a) of headnote 3 to chapter 17 of the Harmonized Tariff Schedule of the United States is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by adding after clause (i) the following:

"(ii) Notwithstanding any other provision of this headnote, any limitation imposed under this headnote on the total quantity of sugars, syrups, and molasses described in subheadings 1701.11, 1701.12, 1701.91.20, 1701.99, 1702.90.30, 1702.90.40, 1806.10.40, or 2106.90.10 that may be entered during calendar year 1990, 1991, 1992, or 1993, shall be established at—

"(A) a level that equals or exceeds the sum of the amount of such limitation for the calendar year preceding such calendar year, plus 500,000 short tons, raw value; but only if the President determines that such level will give due consideration to the interests of materially affected contracting parties to the General Agreement on Tariffs and Trade; or

"(B) such other maximum level as the Secretary of Agriculture determines will permit him to continue to operate the sugar program at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation; but only if the President determines that such level will give due consideration to the interests of materially affected contracting parties to the General Agreement on Tariffs and Trade.".

(c) ENTERED.—For purposes of subsection (a), the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

SEC. 4. MARKET STABILIZATION PRICE.

(a) IN GENERAL.—The Secretary of Agriculture shall endeavor to reduce the difference between the loan rate and the market stabilization price by using alternative methods for determining transportation differentials and regional loan rates. However, in no instance shall the market stabilization price be more than four cents per pound above the established loan level for raw cane sugar.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate describing steps taken to reduce the difference between the market stabilization price and the loan rate for raw cane sugar.●

● Mr. LAUTENBERG. Mr. President, I am very pleased to join as an original cosponsor of this important legislation.

Mr. President, the sugar program needs reform. The current program is hurting consumers, producers of products containing sugar, the domestic sugar refining industry, and many of our sugar-producing allies and neighbors.

American consumers are now paying about three times the world price for raw sugar. It adds up to an additional $3 to $4 billion a year for American consumers, or $100 a year for a family of four.

Manufacturers of candy, chocolate, and other sugar-containing products also are paying a heavy price for the sugar program. Some have fled to Canada to avoid the inflated United States prices, leaving their American workers behind. Those who have remained are being placed at a competitive disadvantage because foreign competitors are producing their products with cheaper sugar. The result again is lost American jobs and lost American manufacturing capacity.

Another casualty of our misguided sugar program is the domestic sugar refining industry. Choked by inadequate supplies of sugar caused by U.S. import quotas, a large number of refiners have been forced out of business. Many others are on the financial brink. As refiners fail, chocolate and candy manufacturers who depend on them for supplies also suffer.

The harmful effects of the Nation's sugar program do not stop at the border. By limiting imports of sugar, we are hurting many of the poorest countries in the world that depend heavily on sugar exports—countries like the Philippines, El Salvador, Costa Rica, and several Caribbean and African countries. Many of these countries are struggling to maintain democracy and improve their economies. Their people are struggling with desperate poverty.

The United States has strong interests in supporting these countries: political interests and moral interests. Yet while we often uphold these interests in our rhetoric, we undermine them with our sugar program, a program that can only be labeled as protectionist.

For all the costs the sugar program imposes, it benefits only a small number of producers: less than 12,000 growers and a few corn sweetener producers. But the few that benefit do so in a big way. The program's effective annual subsidy works out to about $170,000 per sugar grower. For some, the program means millions of dollars in Government-created income.

Mr. President, our sugar program has been a sweet deal for sugar producers, but has soured our relations with many in the Third World. Millions of people around the world are suffering so that a narrow special interest can reap a large and unjustified windfall. That is fundamentally wrong.

This bill will begin to correct that wrong. I commend my colleague from New Jersey, Senator BRADLEY, for his leadership in this area, and I look forward to working with him to help ensure that the bill receives prompt, favorable consideration in the Senate.●

● Mr. ROTH. Mr. President, I am pleased to join with my colleagues, Senators BRADLEY, MOYNIHAN, CHAFEE, SPECTER, LAUTENBERG, DOMENICI, KENNEDY, AND PELL, in introducing legislation that will make some important and needed reforms in our domestic sugar program. This bill, the Sugar Supply Stabilization Act, is one that will benefit the American consumer and the American homemaker. It will benefit American businesses, and it will even benefit American children, the boys and girls who love ice cream and candy bars. It will benefit all those who operate on a budget by gradually reducing sugar price supports and the artificially high prices that accompany them.

Now it's no great secret that I am not—nor have I ever been—a supporter of our agricultural subsidy program. My record, in this area, speaks for itself, as I have consisently voted against subsidies. In fact I would like to see all agricultural subsidies phased out over a 10-year period—not only for the taxpayer, but for the industries that become distorted through subsidies. As the Wall Street Journal recently paraphrased Chief Justice Marshall, "the power to subsidize is the power to destroy."

Personally I believe that the farm policies of the Congress, over the past 8 years, have probably cost more family farms than they have saved. Ironically, it was to protect the family farm that subsidies were introduced, but now it appears that the biggest victims are the good farmers who are paying the price for their inefficient brethern.

This legislation is a step in this direction. It is legislation that will save our citizens billion of dollars at the grocery store as the artificially high prices, now associated with sugar, are brought down through production and competition. At the same time, this bill will restore some semblance of balance to what has been a time bomb in our agricultural policy.

Currently, we have a domestic sugar price support program which has set a domestic sugar price of 18 cents per pound—almost three times as high as the world price. The high cost of the sugar program is a bitter cost to four sectors in our economy. First, it costs the American consumer who must

front the price increase, because contrary to popular belief, the Government sugar program does not maintain stable prices for the consumer. Wholesale refined sugar prices are 25 percent higher than 1 year ago. U.S. retail prices have increased by 7.8 percent over the last 12 months. Sugar growers have absolute downside protection if the market fails, while the consumer and industrial users have no protection from increases in sugar prices.

Second, the sugar price supports are at the expense of the manufacturer and American worker who once refined imported raw sugar. The reduction of raw sugar imports has led to the closing of nine east coast and gulf port sugar refineries, at a loss of 7,000 refinery jobs. It is also at the expense of the workers displaced by imports of high sugar content foods. The Department of Commerce estimates that some 8,900 food manufacturing jobs have been lost to the increased imports of sugar containing products.

Third, sugar supports are at the expense of the American taxpayer who pays for the loans when the processors default. It is costing consumers over $3 billion annually in higher sweetener prices, while defaults on 1984 sugar crop loans cost the taxpayer about $83 million.

Finally, sugar price supports are at the expense of the nations that export sugar into the world market. Our sugar program is a disaster for foreign nations. It is a disaster because the sugar import quota is 75 percent lower than it was at the beginning of the 1981 farm bill. Had it not been for the drought of 1988, the quota could well have fallen to 500,000 tons for 1989. In a few years the United States could become self-sufficient in sugar. Meanwhile the earnings from exports to the United States dropped from $2.1 billion in 1981 to an estimated $400 million in 1989. Ironically it's also the American taxpayer who pays for the foreign aid to help fledgling democracies like the Philippines, whose economies have been adversely impacted by America's protectionist sugar policies.

Mr. President, we are faced with an economic question: Should the United States encourage domestic production of sugar and if so, at what cost? Historically domestic producers and foreign suppliers shared the U.S. market in roughly a 55-to-45 ratio. It is estimated that in 1988 the market was shared at an 88-to-12 ratio. The direct beneficiaries of the program are the 12,000 growers and processing companies, whose revenues have been approximately double what they would have been without the support. The program has made it profitable for growers to increase production by about 23 percent during a period when total consumption dropped by 17 percent. Tropical producers and major exporters of sugar have substantially lower production costs and few if any alternative uses for their resources. Already we have seen a loss of jobs in the United States as the food processing industry has moved from the United States to other countries where sugar can be purchased at one-third the cost. Consequently, we have seen increased sales of important sugar-containing products in the United States. Without a change in the existing program these trends will continue, and the inevitable will result: Jobs will continue to be lost in the domestic food processing industry. Foreign policy will continue to be adversely affected. And our consumers—taxpaying Americans who make our country run—will continue to front the expense of bad policy at the grocery store, to the tune of $3 billion per year.

Mr. President, some people are concerned that reducing sugar prices may have an adverse effect on high fructose corn syrup production, and thus affect our corn growers. I would like to place in the RECORD a letter that I recently received from the Department of Agriculture [USDA]. I requested that the USDA do an appraisal of a study recently undertaken by Abel, Daft, & Earley, an economic consulting firm specializing in food and agriculture issues. The USDA confirmed the main conclusion of the study that corn growers would be essentially unaffected if the sugar program is made more market oriented.

The purpose of this bill is to create jobs, to save the consumer dollars, to help open markets for our farmers who are the most efficient in the world, and to provide trade opportunities for many strategic allies in Latin America, Asia, and the Caribbean basin. We proposed to do this by gradually reducing the raw sugar support level from 18 cents to 12 cents per pound and to increase the U.S. sugar import quota by about 500,000 tons per year. I urge my colleagues to join us in this effort.

Mr. President, I ask unanimous consent to print at this time the letter previously mentioned.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: This is in response to your letter requesting our appraisal of a report that was recently released by the Sweetener Users Association. The report which analyzed proposed changes in the current sugar program had been prepared by Abel, Daft & Earley.

We agree with the Abel, Daft & Earley study that a reduction of the sugar support price from 18 to 12 cents per pound under the conditions assumed in the study would not likely cause a significant reduction in the production of high fructose corn syrup (HFCS). HFCS revenues would fall, but would still cover average production costs.

As the study shows, the suggested reduction in the raw sugar support price would produce a refined price near 19 cents a pound, compared with the 1988 price of 24.3 cents. The average cost of producing HFCS was estimated to be around 12 cents a pound when corn was $2.00 a bushel. Even at considerably higher raw material costs, HFCS could continue to be priced below sugar and still yield a return above average production costs. There may be some producers having production costs above the industry average. The operations of these firms or plants could be affected by the lower HFCS prices. However, on the whole, corn growers would essentially be unaffected as the study concludes.

One small segment of the corn wet milling industry, dextrose, would lose sales. However, glucose would still likely be able to compete with lower-priced sugar.

We hope this information is useful to you.

Sincerely,

EWEN M. WILSON,
Assistant Secretary for Economics.●

● Mr. CHAFEE. Mr. President, I am pleased to join Senators ROTH and BRADLEY once again in introducing the Sugar Supply Stabilization Act. The bill proposes a much-needed reform of our sugar program, which currently subsidizes a handful of American growers, and penalizes other sugar exporting countries by limiting access to U.S. markets.

American consumers pay $3 billion more a year for sweet products, because this protective policy inflates prices, hindering the market's ability to balance changes in supply and demand. To alleviate this situation, our bill proposes a reduction in the raw sugar loan rate from the current 18 cents to 12 cents per pound, over the next 4 years. It would also raise the import quota for sugar and related products by 500,000 tons per year.

The U.S. sugar program props up about 11,000 domestic sugar producers through price supports and imports controls. These farmers and corporations represent less than 1 percent of total U.S. agriculture, yet receive an annual subsidy of approximately $170,000 a grower. Here we are only talking averages, in an industry where a few large-scale individual producers dominate. In the sugar beet industry, 11 processors receive 40 percent of Federal subsidy benefits. The sugarcane industry provides a parallel example: Five corporations produce 98 percent of the Hawaiian crop, and two corporations produce over half the Florida crop.

The effects of our sugar program are subtle, but still pernicious. The sugar price support provides a price umbrella for corn sweeteners which, like sugar, are added to a wide variety of consumer goods. Each time we buy peanut butter, crackers, salad dressing, and ketchup, we subsidize the sugar industry. Since lower income consumers spend proportionately more for

food, the poor suffer the most from this hidden tax. Keep in mind that on average a food stamp participant receives $545 a year, while since 1981, the cost of the sugar subsidization has been about $18 billion, an average of $200 per household.

Certainly, the sugar program does protect some jobs, but in an industry whose future ability to provide jobs is dubious. Looking ahead, the trend in the sugar industry is toward mechanization. In Louisiana alone, such technological advances have cut the sugar work force from 15,000 to 4,000 in just 10 years. Yet, the Commerce Department has estimated that the cost of saving one job in the sugar industry is about $76,000 per year.

Further, the sugar program adversely affects other jobs. For example, the chocolate and confectioners industries alone employ more than 60,000 people in the United States. They face increasingly stiff competition from imported candies, which are made from sugar bought closer to the world market sugar price of 10 cents per pound. Our inflated price hit 30 cents per pound in 1988. Implementation of the provisions of this bill would create opportunities in the food processing industry. When U.S. exports are more competitive, domestic manufacturers of sweet products will need American workers to help them take advantage of enhanced market opportunities.

Although the sugar program is run at no cost to the Treasury now, that is likely to change. The artifically high market price will continue to encourage sugar cane and sugar beet growers to expand their production. In response, the Government will again reduce the sugar import quota to shrink the supply of available sugar, ensuring that the domestic price will not bottom out. Restricting imports relieves the Government from having to buy up unsold sugar.

As sugar production spirals upward, our import quota will dwindle. The U.S. import quota for sugar, allocated to 39 countries, averaged 4.4 million tons annually in the late 1970's. In 1984, due to Government protections, the quota had been reduced to around 3 million tons. By 1988, it had dropped dramatically to just over 750,000 tons. Although the drought allowed a midyear increase in the 1988 and 1989 quotas, when the Department of Agriculture increased the sugar import quota to a little over 1 million tons, it is still 75 percent below the 1981 level.

Eventually, the import quota could be down to zero, yet we will be stuck with a program which requires direct Government payments to support sugar producers at the federally mandated price level. We must put a stop to this cycle, particularly as we face a daunting Federal budget deficit, and contemplate belt-tightening measures in other sectors of the economy.

Those who resist the reforms of this measure ask our Government to contradict itself. Our own sugar program is an example of exactly what we decry elsewhere. On one side of the Atlantic, we have trade negotiators trying to convince other nations to remove trade barriers, in the on-going Uruguay round discussions of miltilateral trade. We are asking for reduction over the next 10 years of all import barriers, and of all agricultural subsidies which directly or indirectly affect trade. Meanwhile, back at home, our own sugar policy is a perfect example of the distortion protectionism brings to the market.

As an alternative message to the one sent by our existing sugar policies, this act is consistent with our goals at General Agreement on Tariffs and Trade [GATT] discussions. We have maintained positions of fair and free trade since the September 1986 Punta del Este Declaration. We reiterated them again at the 1987 Venice Economic summit when President Reagan called for major reform in agricultural trade. At present, our sugar price supports and tight import quotas are neither free nor fair. This bill provides a start on the road toward an honest coordination of our trade policies with our domestic agriculture programs.●

By Mr. WILSON:

S. 554. A bill to modify the navigation project for Morro Bay, CA, to direct the Secretary of the Army to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet, and for other purposes; to the Committee on Environment and Public Works.

MODIFYING THE NAVIGATION PROJECT FOR MORRO BAY AND MORRO BAY HARBOR, CA

● Mr. WILSON. Mr. President, today I am introducing legislation which will authorize the Army Corps of Engineers to begin dredging the Morro Bay Harbor entrance in California. I am joined by the distinguished chairman of the House Budget Committee, Representative PANETTA, who is introducing an identical bill in the other body today. Authorization of this project is made contingent upon a favorable feasibility study which was included in the fiscal year 1989 energy and water appropriations bill.

I am taking the unusual step of asking for preauthorization of a corps project because of the incredibly dangerous conditions that exist at the entrance to Morro Bay Harbor. Since 1970, the large surf created by the sandbars in the harbor entrance have claimed at least 15 lives and countless near tragedies. It is not uncommon during the winter months for 20-foot waves to break directly into the harbor entrance, making travel into and out of the harbor terrifying and hazardous.

One of the most publicized accidents in the last several years was the capsize of the whale watching boat San Mateo by a 20-foot wave in February 1983. This boat was taking 26 elementary school children and several adults on a whale watching expedition. Miraculously, everyone was rescued from the sea within 15 minutes due to the commendable bravery of the harbor patrolmen.

More recently, veteran fisherman Al French drowned when his 42-foot commercial fishing vessel was overturned by large surf in November 1987. Mr. French was regarded as the most experienced fisherman in Morro Bay and most people agree with what supervisor Bill Coy has told me: "If it can happen to Al French, it can happen to anyone and certainly will."

What makes the Morro Bay Harbor entrance so dangerous is the speed in which these huge breakers are created. Because of the unique position of Morro Bay on the coast of California, the waves breaking at the entrance can be very small one moment, and 10 minutes later 20-foot waves can be pounding the entrance. This makes it very difficult for even most experienced boat operators.

Morro Bay is the only port of refuge between Monterey and Santa Barbara and attracts boaters from all over the central coast area. Traffic in Morro Bay has increased significantly in the last decade and the number of boating accidents has also increased proportionately. Boaters traveling the coast of California have a difficult decision if they are caught in the Pacific as a storm comes up. They can stay out in the rough seas or take a chance and try to enter Morro Bay Harbor.

Last year the corps completed a preliminary study of the harbor entrance and recommended dredging of the entrance as the most promising solution to the problem. Funds were included in the fiscal year 1989 appropriations bill for the corps to do a complete study, which began last fall. My legislation will direct the Corps of Engineers to begin making the necessary modifications to the harbor entrance within 6 months of the completion of its study if the corps finds the dredging alternative feasible.

I realize that authorizing a project before the studies are complete is not common practice. However, the situation in Morro Bay requires that every effort be made to expedite these proposed modifications. Morro Bay Harbor was created by the Federal Government and it is our responsibility to ensure its safe operation.

I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD at this time.

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

S. 554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the navigation project for Morro Bay, California, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 21), is modified to direct the Secretary of the Army, acting through the Chief of Engineers—

(1) contingent upon a favorable recommendation by the Chief of Engineers, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet not later than six months after completion of a feasibility study by the Corps of Engineers regarding such project and thereafter maintain such channel at such depth; and

(2) to carry out and maintain such other improvements at such harbor as the Chief of Engineers determines to be necessary to allow safe navigation into and out of such harbor.●

By Mr. GRAHAM (for himself, Mr. GORE, Mr. NUNN, and Mr. PRYOR);

S. 555. A bill to establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes; to the Committee on Energy and Natural Resources.

DE SOTO TRAIL COMMISSION ACT OF 1989

● Mr. GRAHAM. Mr. President, I wish to introduce along with several of my esteemed colleagues, a bill to establish the De Soto Trail Commission, for the purpose of marking the historic path of Hernando De Soto's expedition.

On May 30th of this year, we in Florida will celebrate the 450th anniversary of the first landfall of De Soto's expedition—one of the greatest explorations of the new world. Our bill creates a commission whose task is to establish a commemorative highway route of the expedition and an archaeological and historical research institute for studies related to the De Soto expedition. Passage of this legislation by the May celebration would provide a fitting tribute to De Soto's historic landing in the State of Florida.

De Soto's forces marched through Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, and Texas. The Spanish explorers came to La Florida certain of their ability to control whatever they might find. They discovered almost instantly that the new world demanded new behavior and new attitudes. Hernando De Soto died on the banks of the Mississippi River in 1542. He was not yet 40 years old, his grandiose dreams of gold and glory unrealized. Although the rest of his expedition continued on across the south, they never achieved De Soto's goals.

By marking the trail De Soto set, we continue that famous expedition. Today we know that knowledge of the past is a treasure more priceless than gold. The route he discovered was really a trail blazed into the future. De Soto irrevocably altered the history and pattern of western civilization. As we retrace his footsteps we will uncover pieces of our own history as fragile and as enduring as the links of armor found at the winter campsite in Tallahassee.

We are linked by a common challenge of discovery and adaptation which has survived these 450 years—and which will doubtless continue to test us for centuries to come.

The De Soto Trail will be an important addition to the many trails marked throughout our country. I thank you Mr. President, and invite my colleagues to cosponsor this significant legislation recognizing yet another step in our great history.

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

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

S. 555

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 "De Soto Trail Commission Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the expedition of Hernando De Soto was the first major European exploration of the interior of the southeastern United States and that the chronicles of the expedition provide a rare description of indigenous Indian societies;

(2) knowledge gained as a result of the expedition contributed significantly to the subsequent exploration and colonization of the region;

(3) discovery of the first winter encampment in Tallahassee, Florida, is the most recent archaeological evidence of the De Soto expedition in the United States;

(4) the State of Florida has completed the marking of a commemorative De Soto trail and the State of Alabama has identified a commemorative trail to be marked by 1990;

(5) the De Soto Trail Commission of the Southeast Region has identified a recommended "Highway Route of the De Soto Expedition"; and

(6) official commemoration of the De Soto expedition will increase public awareness of early European exploration of the southeastern United States, encourage further archaeological and historical research, and ultimately increase our knowledge of the early historic period of the southeastern United States.

(b) PURPOSE.—In furtherance of the findings set forth in subsection (a) of this section, it is the purpose of this Act to establish, through a Commission composed of individuals representing scholarly research and all concerned levels of government—

(1) a commemorative highway route of the De Soto expedition;

(2) a comprehensive plan for the administration of such a highway route including associated public interpretive facilities; and

(3) an archaeological and historical research institute for studies related to the De Soto expedition.

TITLE I—DE SOTO EXPEDITION TRAIL COMMISSION

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—To carry out the purposes of this title and assist with the establishment of a commemorative highway route of the De Soto expedition, there is hereby established in the Department of the Interior the De Soto Expedition Trail Commission (hereafter in this Act referred to as the "Commission"). The Commission shall exercise its responsibilities and authorities as provided in this Act with respect to that region in southeastern United States comprising the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas (hereafter in this Act referred to as the "involved States"). The Commission shall consist of 19 members, appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") as follows:

(1) 10 members appointed from recommendations submitted by the Governors of the involved States of which one shall represent each State;

(2) 4 members appointed from recommendations submitted by the De Soto Trail Commission of the Southeast Region;

(3) 2 members appointed from recommendations submitted by State Historic Preservation officers of one or more involved States both of whom shall represent local or county historical commissions;

(4) 2 members appointed by the Secretary, of which one shall hold the position of Superintendent, De Soto National Memorial and the other shall have knowledge and experience in the Spanish colonization of southeastern United States; and

(5) 1 member appointed by the Secretary from recommendations submitted by the Smithsonian Institution.

(b) APPOINTMENT.—All members of the Commission shall be appointed for terms of 2 years, except that the terms of the 10 members appointed from recommendations submitted by the Governors of the involved States pursuant to subsection (a)(1) shall be for a term of 4 years.

(c) CHAIRPERSON.—The Commission shall elect a chairperson from among its members. The term of the chairperson shall be 2 years.

(d) TERMS.—Any member of the Commission appointed for a definite term may serve after the expiration of such term until a successor is appointed. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which its predecessor was appointed.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least biannually or at the call of the chairperson or a majority of its members.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

SEC. 102. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) through the De Soto Expedition Archeological and Historical Institute make loans and grants, from funds appropriated

for that purpose or from funds donated or otherwise made available to the Commission, to conduct archeological research and field investigations and historical research, and publish materials regarding the De Soto expedition for purposes including location of the expedition route, recovery and preservation of archeological or historical materials, and advancement of knowledge regarding Hernando de Soto, the expedition through southeastern United States and the native cultures inhabiting the region during the early historical period;

(2) coordinate activities of Federal, State, and local governments and private businesses and organizations in order to further the commemoration of the De Soto expedition;

(3) develop guidelines and standards consistent with standards established by the National Park Service for the commemoration of the De Soto expedition, including interpretive methods;

(4) within 2 years submit to the Secretary, recommendations pertaining to the identification and designation of a highway route of the De Soto expedition, interpretive facilities to appropriately commemorate Spanish exploration, and a detailed plan to administer such route and facilities; and

(5) provide advice and assistance in preparation of loan or grant applications to the Commission and applications for loans or grants from other Federal or non-Federal sources in furtherance of the purposes of this title.

Any loan made under this subsection shall be for a term expiring before the date 4 years after the enactment of this Act and shall be subject to such other terms and conditions, including interest, as may be established by the Commission with the approval of the Secretary.

(b) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary describing activities of the De Soto Expedition Archeological and Historical Institute, progress with respect to designation of a commemorative highway route and establishment of interpretive facilities and setting forth expenses and income and the entities to which any loans and grants were made during the year for which the report is made. The Secretary shall submit an annual report to Congress describing the Commission's activities. Such report shall specify research activities, progress with respect to commemorative route designation, and a summary of loans, grants, and technical assistance provided under the Act including the amount, recipient, and purpose of any loan, grants, and technical assistance so provided. The report shall also include an analysis of the adequacy of actions taken during the previous year to commemorate the De Soto expedition, conduct archeological and historical research, and publish information regarding the expedition and native Indian cultures encountered; as well as the anticipated funds and personnel to be made available by the Secretary during the next fiscal year to implement provisions of the Act.

(c) COST ESTIMATES.—Prior to making any grant or loan the Commission shall require detailed cost estimates to be prepared for the project to be funded. Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the appropriate committees of the Congress detailed cost estimates for all projects planned.

(d) EXPIRATION.—The Commission established pursuant to this title shall cease to exist 4 years from the date of enactment of this Act. Any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the United States, to a State or local government agency, to a private nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

SEC. 103. STAFF OF THE COMMISSION.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from one or more of the involved States (and any political subdivision thereof) and may reimburse the State(s) or political subdivision(s) for those services.

SEC. 104. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) ARCHEOLOGICAL AND HISTORICAL RESEARCH COMMITTEE.—The Commission shall establish an archeological and historical research committee to provide technical oversight and day-to-day administration of the De Soto Expedition Archeological and Historical Institute.

(e) TECHNICAL ADVISORY GROUPS.—The Commission may establish and appoint one or more technical advisory groups to provide technical advice in financing, interpretive facilities, tourism, publications, and intergovernmental coordination.

(f) DONATIONS.—Nowithstanding any other provisions of law, the Commission may seek and accept donations of funds or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(g) FUNDS FROM OTHER SOURCES.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(h) OBTAINING PROPERTY.—The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services, as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $1,000,000 to the Commission to carry out the purposes of this title.

TITLE II—HIGHWAY ROUTE OF THE DE SOTO EXPEDITION

SEC. 201. DESIGNATION OF THE ROUTE.

(a) DESIGNATION.—In order to provide for public appreciation, education, understanding, and enjoyment of the De Soto expedition and native Indian cultures encountered, the Secretary of the Interior, with the concurrence of the agency having jurisdiction over applicable public roads, shall designate by publication of a description thereof in the Federal Register, a vehicular route along existing public roads paralleling as closely as practicable the route of the De Soto expedition. Such route shall be known as the Highway Route of the De Soto Expedition (hereafter in this title referred to as the "route"), and shall be designated with appropriate markers to guide members of the public. The Secretary may provide funds necessary to States or local entities having jurisdiction over such roads so designated to erect thereon signs and other informational devices displaying the marker of the Highway Route of the De Soto Expedition.

(b) INITIAL ROUTE.—The route as initially designated shall include that portion as designated by the State of Florida described as Florida Highway 64 from De Soto National Memorial to Bradenton, thence U.S. Highway 301 to Bushnell, thence U.S. Highway 48 to Floral City, thence U.S. Highway 41 to Williston, thence Florida Highway 121 to Gainesville, thence Highway 90 to Florida/Georgia State line and that portion proposed to be designated by the State of Alabama described as U.S. Highway 278 from the Georgia/Alabama State line to Piedmont, thence Alabama Highway 21 to Winterboro, thence Alabama Highway 76 to Childersburg, thence U.S. Highway 231 to Montgomery, thence U.S. Highway 80 to Uniontown, thence Alabama Highway 61 to Greensboro, thence Alabama Highway 69 to Tuscaloosa, thence U.S. Highway 82 to the Alabama/Mississippi State line.

(c) ADDITIONAL SEGMENTS.—The Secretary may, in the manner set forth in section 201 of this title, designate additional segments of the route from time to time upon the recommendation of the De Soto Expedition Trail Commission as provided by section 102(a)(4).

SEC. 202. TECHNICAL ASSISTANCE.

With respect to segments of the route, the Secretary may, pursuant to cooperative agreements with the De Soto Expedition Trail Commission, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the archeological, historical, and cultural values along the route.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $500,000 to the Secretary to carry out the purposes of this title. No funds made available under this title shall be used for

the operation, maintenance, or repair, of any road or related structure.●

By Mr. GLENN:

S. 556. A bill to amend title II of the Domestic Volunteer Service Act of 1973 to require that priority be given to funding programs of national significance; to the Committee on Labor and Human Resources.

PROGRAMS OF NATIONAL SIGNIFICANCE

● Mr. GLENN. Mr. President, today I am pleased to introduce legislation which would amend the Domestic Volunteer Service Act by giving priority to programs of national significance under the Retired Senior Volunteer Program [RSVP]. The programs highlighted in this legislation are literacy and reading skills training for library latchkey children, guardianship monitoring programs, and respite care programs.

We have heard a great deal about latchkey children—children who return to empty homes after school. More recently, we have learned of the growing number of library latchkey children—children who regularly spend their afterschool hours in public libraries. A 1988 study by the American Library Association indicates that one of the most rapidly developing public library policy issues is what to do about library latchkey children. Although libraries are committed to serving the needs of children, they are not prepared to deal with the great numbers of unsupervised children who, on a regular basis, are spending extended time in libraries as a means of afterschool day care.

I can think of no better way for older Americans to put their talents to use than by helping our Nation's children. Using RSVP volunteers to provide literacy and other programs for children benefits all of us. It provides a meaningful way for older Americans to share their talents, it greatly benefits the children who receive both assistance in developing reading skills and special attention from an older adult, it helps the staffs of public libraries who are taking time from their other duties to supervise latchkey children, and it is addressing our Nation's growing need for day care given the increasing number of women who are working.

Recent reports and investigations have highlighted problems in guardianship programs. Guardianship is an important issue and one that is tied to our concern about long-term care. It will become more important as our older population increases, particularly the very old. Many people may need some assistance in managing their affairs because they are in very poor physical or mental health. However, their civil liberties should not be taken away without very good justification and without due process. And when a guardian is appointed, there should be an assurance that this person is highly qualified and that their actions will be monitored to ensure that they are in the best interests of the person they have been appointed to protect.

Earlier this year, I introduced the National Guardianship Rights Act which would provide greater protection against abuse for the nearly 500,000 elderly and disabled Americans who are under guardianship system is through the use of advocates trained to work within the court system to counsel potential wards regarding the court process and to monitor guardianships once they are established. The legislation I am introducing today is based on my belief that RSVP volunteers are an important resource for use in developing a volunteer guardianship advocacy program.

Assisting family caregivers, who provide 80 to 90 percent of the care that is being given to older persons, has long been an issue of great concern to me. One way of assisting these caregivers is through the provision of respite services, which allow the caregivers a little time for themselves and often make it possible for them to continue caring for elderly family members.

A recent ACTION study, which was done in response to my amendment to the 1986 reauthorization of the Domestic Volunteer Service Act, found that both RSVP and Senior Companion Program [SCP] volunteers are providing respite services to family caregivers; and the volunteers are deriving a sense of satisfaction from providing this great needed service. However, the report also found that a large number of caregivers who could use assistance are put on waiting lists due to an insufficient supply of volunteers. Establishing respite care as a targeted program may help provide greater emphasis on services to caregivers.

Members of our growing elderly population have a great deal to contribute to our society, and they are doing so in many ways. Because of their national importance, I believe that the programs I have briefly discussed should receive priority attention when determining the best way to use volunteers as resources in our communities. And I believe that by targeting activities, project directors can benefit from each others' experiences and thus do a better job of recruiting, training, and placing volunteers.

On the other hand, I would like to point out that these national priorities are not mandates. No one knows better than those at the local level what services are needed in a particular community, or how best to match the talents of particular volunteers with persons and groups that would benefit from their assistance.

An identical bill, H.R. 1272, was introduced in the House of Representatives by Congresswoman OLYMPIA J. SNOWE on March 2, 1989. I urge my colleagues to join us in working for passage of this amendment to the Domestic Volunteer Service Act.

Mr. President, I request that the full 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. 556

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

SECTION 1. PROGRAMS OF NATIONAL SIGNIFICANCE UNDER RETIRED SENIOR VOLUNTEERS PROGRAM.

Part A of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) is amended by adding at the end the following new section:

"PROGRAMS OF NATIONAL SIGNIFICANCE

"SEC. 202. In making grants under section 201 and determining the amount of the grants, the Director shall give priority to programs of national significance, such as—

"(1) volunteer programs in libraries during afterschool hours to provide literacy and reading skills training for children whose parents are not at home during afterschool hours;

"(2) guardianship monitoring programs; and

"(3) respite care programs.".

SEC. 2. CONFORMING AMENDMENT.

The table of contents in the 1st section of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 prec.) is amended by inserting after the item relating to section 201 the following new item:

"Sec. 202. Programs of national significance.".●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 557. A bill to provide that Pocatello and Chubbuck, ID, be designated as a single metropolitan statistical area; to the Committee on Governmental Affairs.

DESIGNATION OF CONSOLIDATED STATISTICAL AREA

Mr. SYMMS. Mr. President, I am introducing legislation today, along with the senior Senator from Idaho, Senator MCCLURE, designed to correct the inequitable Medicare reimbursement rates to the Pocatello and Bannock Regional Hospitals in Pocatello, ID.

Pocatello's population of 46,340 is just short of the 50,000 population necessary to establish a Metropolitan Statistical Area [MSA]. The city of Chubbuck, separated from Pocatello by a street, has approximately 7,000 people. Together, the population of Pocatello and Chubbuck easily exceeds 50,000, and since their geographic separation is but a single street, they clearly qualify for designation as an MSA. This designation would allow the hospitals to be reimbursed by Medicare at the urban rate. They serve an urban area, and incur the same costs of an urban area, yet currently, they are reimbursed at a rural rate.

This legislation will ensure that area health care providers are compensated equitably by the Government.

The MSA status would not affect the independence or autonomy of Pocatello and Chubbuck as separate governmental entities.

This simple designation would make a tremendous difference in the health care services provided to the people of Pocatello and Chubbuck, ID. Senator McCLURE and I will make very effort to move this legislation forward in a timely manner.

Mr. President, I ask 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. 557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Director of the Office of Management and Budget shall designate Pocatello and Chubbuck in Idaho as a single metropolitan statistical area, effective October 1, 1989.

Mr. McCLURE. Mr. President, I want to add my strong support to the remarks of Senator SYMMS upon the introduction of legislation to designate Pocatello, ID, as a Metropolitan Statistical Area. Pocatello has been penalized by a rigid census system and this problem must be addressed.

The basic criteria for receiving an MSA designation is that a city must have a population of at least 50,000. Pocatello's population, according to the 1980 census, is 46,340. What makes Pocatello's problem unfair is that directly adjacent to Pocatello is the community of Chubbuck, with 7,061 residents. When I say directly adjacent, I mean directly. All that separates Pocatello and Chubbuck is a street.

Because Chubbuck is a separate community, its population is not counted in Pocatello's census. I certainly don't quarrel with Chubbuck's right to remain a separate entity, but in this case, the failure of the Federal Government to provide some flexibility in population counts is causing a severe problem for Pocatello's two hospitals.

As Members of this body well know, a hospital must be located in an MSA in order to receive an urban designation for purposes of Medicare reimbursement. This designation allows for a much higher level of reimbursement.

Common sense tells me that the population of the Pocatello area should make it qualify for urban status. Pocatello and Chubbuck have a combined population of 53,401—well above the 50,000 cutoff for an MSA designation. But common sense very often times does not have a place in the Federal Government. In its infinite wisdom, the Federal Government has denied Pocatello an MSA designation by refusing to recognize that the two cities, while separate legal entities, share one city's boundaries.

The result has been the loss of between $1 million and $1.5 million to Pocatello's hospitals. Both Pocatello Regional Medical Center and Bannock Regional Medical Center should be reimbursed by Medicare at a level designated as urban. As it is, one hospital is designated as rural, and the other as a rural referral center. It's crazy. It makes no sense.

We've managed to set up a system that has hospitals serving people that the Federal Government essentially refuses to admit exist. If Chubbuck, ID, had its own hospital, perhaps I would feel differently. But the residents of Chubbuck and, indeed, all of Bannock County, ID, use these two hospitals. These two hospitals are serving an urban population of over 50,000 and a county wide area much larger than that. They should be reimbursed at an urban level and I urge my colleagues to pass this legislation.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 558. A bill to authorize a study on methods to protect and interpret the internationally significant Lechuguilla Cave at Carlsbad Caverns National Park in the State of New Mexico; to the Commitee on Energy and Natural Resources.

LECHUGUILLA CAVE STUDY ACT

● Mr. DOMENICI. Mr. President, I rise today to introduce the Lechuguilla Cave Study Act of 1989.

This legislation will authorize the Department of the Interior to conduct a study of methods to protect and interpret the internationally significant Lechuguilla Cave at Carlsbad Caverns National Park in New Mexico.

This study will focus on the feasibility of constructing facilities to provide public access to the cave and the feasibility of designating the cave as wilderness.

Although the existence of Lechuguilla Cave has been known for over 75 years, for most of that time it was considered just another minor cave Carlsbad Caverns National Park, which contains 75 caves.

Recent explorations of Lechuguilla Cave, however, have turned up amazing new information about the cave that has captured the interest of cave enthusiasts from around the world.

The new discoveries at Lechuguilla Cave are among the most remarkable exciting cave discoveries of this century. They have prompted the National Speleological Society to describe Lechuguilla Cave as possibly the finest cave in America.

The recent explorations of Lechuguilla Cave have established that the cave is over 1,500 feet deep, making it the second deepest cave in the United States. The deepest cave in the country is 1,551 feet deep, and there is a possibility that future expeditions may discover that Lechuguilla Cave is that deep.

At over 21 miles in length, Lechuguilla Cave is the 13th longest cave in the United States. However, it is the longest "deep cave"—greater than 1,000 feet deep—in the country and probably contains more passage below 800 feet than all the other deep caves in the country combined.

Lechuguilla Cave is filled with awe-inspiring gypsum deposits and formations, such as 15-long gypsum crystal "chandeliers," delicate gypsum "flowers," gypsum threads as fine as angel's hair, cave pearls, "popcorn," gigantic "soda straws," and billowy cloud formations.

The exploration of Lechuguilla Cave has attracted international attention. In a recent expedition into the cave, a team of Soviet spelunkers accompanied National Park Service personnel. The Soviets stated that Lechuguilla Cave was truly a world-class cave and compared very favorably to the best caves in Africa, Europe, and the U.S.S.R.

Mr. President, we need to develop a plan for protecting, and interpreting this magnificant resource. The study that will be authorized by this bill will set that process in motion. I hope, therefore, that this legislation will enjoy the support of all Senators.

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

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

S. 558

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

SECTION 1. This Act shall be cited as the "Lechuguilla Cave Study Act of 1989."

SEC. 2. The Congress finds that.

(a) Although the existence of Lechuguilla Cave has been known for over 75 years, recent explorations of Lechuguilla Cave have provided amazing new information about the cave that has captured the interest of cave enthusiasts from around the world;

(b) Lechuguilla Cave is the longest deep cave in the United States;

(c) Lechuguilla Cave, which is 1,551 feet deep, is the second deepest cave in the United States;

(d) At over 21 miles in length, Lechuguilla Cave is the 13th longest cave in the United States;

(e) Lechuguilla Cave is filled with awe-inspiring gypsum deposits and formations, such as 15-long gypsum crystal "chandeliers," delicate gypsum "flowers," gypsum threads as fine as angel's hair, cave pearls, gigantic "soda straws," and billowy cloud formations;

(f) The National Speleological Society has described Lechuguilla Cave as possibly the finest cave in America; and

(g) The exploration of Lechuguilla Cave has attracted international attention.

SEC. 3. (a) In recognition of the international significance of Lechuguilla Cave at Carlsbad Caverns National Park, the Secretary of the Interior is authorized and directed to conduct a study of the most appropriate way to protect and interpret Lechuguilla Cave. The study shall include but not be limited to an evaluation of the feasibility of constructing facilities to provide public access to the cave and an evaluation of the feasibility of designating the cave as wilderness.

(b) The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years of the date on which funds are appropriated for the study.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 559. A bill for the relief of Shipco General, Inc. an Idaho corporation; to the Committee on the Judiciary.

RELIEF OF SHIPCO GENERAL, INC.

Mr. SYMMS. Mr. President, today Senator MCCLURE and I are introducing legislation to refer a matter to the U.S. Claims Court. This legislation will expedite a settlement of claims against the Government by Shipco, Inc., a small general construction company in Idaho, for damages incurred as a result of the termination of a construction contract by the U.S. Air Force.

In November 1982, Shipco was the low bidder and was awarded a contract of approximately $3.5 million to renovate 155 individual houses located at Kirtland Air Force Base, NM.

After beginning the job, the company was required to perform numerous extra work items for which the Air Force refused compensation. The Air Force also amended Shipco's contract to require completion of two "acceptable" housing units per day. Without payment for the extra work items, Shipco was unable to return "acceptable" units at the requisite rate.

On October 27, 1983, the Air Force alleged that Shipco had defaulted on its contractual obligations, and the contract was terminated. At that time, Kirtland Air Force Base was withholding retainage, refusing to pay on the numerous extra work items, and had a total of five unpaid progress billings. Total unpaid sums were approximately $600,000.

The Air Force refused to make further payment on these amounts. As a result, Shipco was unable to pay numerous suppliers, subcontractors, and employees. In addition, the company was unable to continue payments on a sizeable bank loan taken out to finance the project.

The contract termination also resulted in the immediate loss of Shipco's bonding capacity. The loss of credit and bonding, coupled with the sizeable bills which could no longer be paid through proceeds from the Air Force Base contract, put Shipco out of business.

Subsequently, the company was sued by many of suppliers, subcontractors, and employees. Its bonding company paid a number of the claims but in turn sued Shipco and its owners for funds that had been advanced.

Shipco appealed the termination for default to the Armed Services Board of Contract Appeals. The appeal was initiated immediately after the termination in 1983, but the Board did not reach a decision until April 1986. The Board reversed the Air Force decision and determined the termination was for the convenience of the Government. This reversal allowed Shipco to recover some of its losses.

The Air Force filed a motion to reconsider the Board's ruling, but in November 1986, the motion was denied. The Justice Department refused the Air Force's request to appeal the Board's decision. Thereafter, the Air Force entered into settlement discussions.

Although the Board's decision was rendered in April 1986, the Air Force made no payment to Shipco based upon the decision until December 1987. That payment only allowed Shipco to reimburse its bonding company, Industrial Indemnity, at the rate of approximately $0.50 on the $1.

The Air Force has indicated a willingness to pay only those limited sums related to settlement expenses, the extra work items for which the Armed Services Board of Contract Appeals determined there was liability, and partial reimbursement of litigation expenses. Shipco seeks reimbursement for all damages incurred through the loss of banking, bonding, and business.

Mr. President, this legislation is not designed to allow Shipco to receive any windfall; rather, its purpose is to have the U.S. claims court determine the amount of legal and equitable claims that may lie against the Federal Government for damages incurred by Shipco as a result of the contract termination at Kirtland. By including the full amount of Shipco's current claims, Senator MCCLURE and I do not intend to prejudge the merits of those claims.

By referring the case to the Court of Claims, we simply wish to see that a decision is rendered in a timely manner. We are concerned by evidence suggesting the Air Force has not pursued an expeditious settlement.

No small business can compete with the unlimited financial and legal resources of the Federal Government, and where the evidence suggests a deliberate attempt by an agent of the Government to delay a resolution, we believe it is appropriate for Congress to expedite the process by referring the case to the Claims Court. This is not a 6-year-old dispute. Justice cannot be served by further delay.

● Mr. MCCLURE. Mr. President, today I am introducing legislation, together with my colleague Senator SYMMS, to refer the case of Shipco Inc. to the U.S. Claims Court for resolution, and to provide funds for settlement of Shipco's claims against the U.S. Air Force.

Shipco is a small contractor from Idaho Falls, in my State. For almost 6 years, Shipco has been trying to obtain a fair settlement for claims resulting from the termination, for convenience of the Government—not through any fault of Shipco—of a 1982 housing contract at Kirtland Air Force Base in New Mexico. I am a strong supporter of our military services, but I am appalled by the way the Air Force has stonewalled this small Idaho contractor.

By way of background, Shipco is a small builder which has been doing construction work for the U.S. Government under the small business set-aside program since the 1960's, including work at Travis Air Force Base, TX, and Mountain Home Air Force Base in Idaho. Since 1981, Shipco has worked for the U.S. Government exclusively.

In November 1982 Shipco was the low bidder on a contract to rehabilitate 155 housing units at Kirtland Air Force Base, at a contract price of approximately $3.5 million. In the course of the contract, the Air Force required Shipco to perform extra work orders, for which Shipco was not reimbursed. The Air Force also amended the contract to include an additional requirement that Shipco complete "acceptable" housing units at a rate of two a day. Due to the Air Force's additional demands, and its refusal to reimburse Shipco for these additional work orders, Shipco was unable to complete units at the required rate.

On October 27, 1983, the Air Force terminated Shipco's contract for what the Air Force claimed was default. As a result, the company was not allowed to complete the work, and the Air Force refused to make any additional payments on the contract. At the time of termination, the Air Force was in arrears for some $600,000 worth of retainage, billings for the extra work orders, and a total of five unpaid progress billings.

With the termination of the contract, Shipco lost its bonding. Without its bonding, Shipco could not obtain any new Government contracts and was effectively put out of business. The company was sued by its suppliers, subcontractors, and employees. Many of these claims were paid by the bonding company, which then sued Shipco and Shipco's owners for the funds it advanced. Shipco was also forced to default on its bank loans, and lost access to further credit.

Shipco immediately appealed its termination to the Armed Services Board of Contract Appeals. It took the Board 2½ years to reach a decision. But in April 1986, the Board reversed the Air Force and converted the termination for default into termination for the convenience of the Government.

The Air Force balked at the Board's decision, and made a motion to reconsider. This motion was denied in November 1986 but the Air Force continued to seek a reversal of the initial decision. It was not until December 1987 that the Air Force actually made any payments. However, that payment was only enough to allow Shipco to reimburse its bonding company for about 50 cents on the dollar.

The situation today is as follows:

The Air Force refuses to reimburse Shipco for the company's damages suffered as a result of the termination. The Air Force is only willing to pay for settlement expenses, the extra work items for which the Board of Contract Appeals found the Air Force liable, and partial reimbursement for expenses related to litigation.

Shipco continues to seek reimbursement for the damages it incurred as a result of the Air Force's termination of the Kirtland contract and the resulting loss of bonding, credit, and business.

Mr. President, this small Idaho company has been given the runaround by the Air Force for long enough. I am extremely distressed at the way the Air Force, with its endless resources and vast, slow moving, contracting bureaucracy, has been able to string along Shipco in the hope that it will give up and go away.

The purpose of this congressional reference is not to give a windfall to Shipco. The purpose is not to impose a specific settlement upon the Air Force. The purpose is to put the matter in the hands of the U.S. Claims Court, so that court can determine a just and equitable settlement that will adequately reimburse Shipco for the damages it has suffered as a result of the Air Force's action in terminating the Kirtland contract.

This has been going on for 6 years. It is time to find a solution. I ask my colleagues to join with myself and Senator SYMMS to move this bill through the committee and to the floor as expeditiously as possible.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 560. A bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico; to the Committee on Energy and Natural Resources.

BOOTS AND SADDLES TOUR STUDY ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation authorizing the study of a boots and saddles tour of eight historic forts occupied during the Civil War and Indian campaigns in New Mexico. I am pleased that my colleague, Senator DOMENICI, is joining me as a cosponsor.

The bill would help advance public appreciation and understanding of these forts, which played a key role in the settlement of the American frontier.

The forts are an important relic of our national history, but a relic that is deteriorating because of weathering, unsupervised visits and the lack of maintenance. There is an urgent need to protect these significant cultural resources. A comprehensive study is necessary to find appropriate means for systematic interpretation, stabilization, and restoration of these valuable sites.

The bill would authorize a 1-year study of these unique forts by the Secretary of the Interior. The Secretary, acting through the Bureau of Land Management and the National Park Service, would develop alternative means of interpreting and preserving the forts including the feasibility of establishing tour routes for vehicles and horse-mounted visitors. These routes may encompass common themes and link appropriate sites. Visitors may be able to reach the forts by already established highways or they could hike or ride horseback along the historical trails that linked the forts in the 1800's.

The territory of New Mexico was crossed by a large number of trails and routes in the 1800's. Numerous military forts were located along these trails to protect settlers and travelers. Because of the arid climate and sparse population of the Southwest, the physical evidence of many of these forts remains. A representative sample of these forts, including way stations and sites along trails, should be nationally recognized for their historic significance.

Eight significant forts are included in this measure: Fort Craig, Fort Cummings, Fort Stanton, Fort Union, Fort Sumner, Fort Seldon, Fort Bayard, and Fort McRae.

Fort Cummings protected the Butterfield stage route between San Diego and San Antonio. This fort was a base of operations for the Apache wars against Indian leaders such as Geronimo and Cochise.

Fort Stanton was founded in 1855 as a military outpost during the Indian wars. It was abandoned by Union troops in 1861 and occupied by Confederate forces until they retreated into Texas after the Battle of Glorietta. In 1862, Kit Carson reoccupied the fort as a center for his campaign against the Apaches and Navajos. Today, the fort is used as a school for the mentally handicapped.

The principal quartermaster depot of the Southwest, Fort Union, guarded the Santa Fe Trail, which served as the main supply artery for Federal forces. The fort flourished until the construction of the Santa Fe Railroad, which replaced the trail as the avenue of commerce, prompting abandonment of the fort.

Fort Sumner exemplifies the U.S. Government's policy of repressing Indian resistance to American expansion through forced settlement on military reservations. Kit Carson invaded the Apache and Navajo homelands and forced them onto Fort Sumner, where they remained for 5 years. After the fort was abandoned, cattle baron Lucien Maxwell bought the land. It was in Maxwell's home that Billy the Kid was shot dead by Sheriff Pat Garrett.

Established in 1865, Fort Seldon protected settlers from desperados and Apache raids. The son of the post commander was Douglas MacArthur, who lived at the fort and later became Supreme Commander of the Allied Forces in the Pacific in World War II. Fort Sheldon was abandoned after the threat of Indian raids subsided.

Fort Bayard was the original reservation established by President Grant and played a key role in the campaigns against Geronimo. In 1899, Fort Bayard was converted into a hospital, which it remains. The post's cemetery was first used in 1866 and now is a national cemetery.

Named for Captain McRae, who died in the Battle of Valverde, Fort McRae was located near the Ojo del Muerto spring and the midpoint of the Jornada del Muerto trail. Its mission was to deny the raiding Indians use of the popular east-west trail. The fort was abandoned in 1876.

These forts represent a unique period in American history, the study of which will contribute to an understanding of the frontier.

Weathering, grazing, unsupervised visitation, and the lack of maintenance are causing the forts to deteriorate. In light of the precarious state of preservation at most of these sites and the urgent need to protect and manage them, increased cooperation between Federal and State agencies and private citizens is necessary for systematic interpretation, stabilization, and restoration of these valuable cultural resources.

Interpretative efforts would be improved with cooperation between State and Federal agencies. Financial resources, personnel and expertise could be shared to increase efficiency. The development of a management plan would guide resource management and protection, visitor use, interpretation, legislative, and administrative compliance, and boundary adjustments.

Such an effort would help preserve and protect an irreplaceable part of

our heritage. Tourists in New Mexico often cite its cultural resources as their chief reason for visiting. A national study of a boots and saddles tour would bring more effective interpretation and appreciation of these unique links to the past.

For these reasons, I urge my colleagues to support this important legislation.

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. 560

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 "Boots and Saddles Tour Study Act of 1989".

SEC. 2. FINDINGS

The Congress finds that—

(1) historic cavalry forts occupied during the Civil War and Indian campaigns in New Mexico represent a unique time period of American history, the study and interpretation of which can contribute to an understanding of the American frontier;

(2) These forts are deteriorating due to natural weathering, unsupervised human visitation, and lack of maintenance and repair; and

(3) in light of the precarious state of preservation at most of these significant cultural resources and the urgent need to protect and manage them, it is necessary to determine, through a comprehensive study, appropriate means by which the systematic interpretation, stabilization, and restoration of these valuable sites can be provided for.

SEC. 3. STUDY AND REPORT BY THE BUREAU OF LAND MANAGEMENT AND THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management and the Director of the National Park Service, shall conduct a study of historic forts in the state of New Mexico occupied during the Civil War and Indian campaigns, including—

(1) Fort Stanton;
(2) Fort Union;
(3) Fort Sumner;
(4) Fort Craig;
(5) Fort Cummings;
(6) Fort Seldon;
(7) Fort Bayard; and
(8) Fort McRae,

(b) REPORT.—Not later than 1 year from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) STUDY CONTENT.—The study shall develop alternative means of interpreting and preserving the forts referred to in subsectoin (a) including the feasibility of establishing tour routes for vehicles and horse-mounted visitors which may encompass common themes and link appropriate sites, and such other information as the Secretary may deem necessary.

SEC. 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums may be necessary to carry out the provisions of this Act.●

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 562. A bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance Program and the Supplemental Security Income Program; to the Committee on Finance.

SOCIAL SECURITY SERVICES IMPROVEMENT ACT

● Mr. RIEGLE. Mr. President, today I am introducing a bill with the Senator from Michigan [Mr. LEVIN] to ensure that individuals participating in the Social Security System are treated with respect, dignity, and fairness.

Another friend and colleague from Michigan, Congressman SANDY LEVIN, is introducing an identical bill today in the other body. Last year, we introduced similar legislation together. We have worked together this Congress, in response to comments we received from the administration and others, to craft some technical improvements and to include two additional provisions.

The Social Security Services Improvement Act, S. 562, would place into law a statement of Americans' rights to fair, courteous, and responsive treatment from the Social Security Administration. The bill encompasses a series of procedural and administrative changes designed to protect the rights of people who deal with the Social Security Administration [SSA].

CASES OF MISTREATMENT

Congressional offices have recently been receiving a variety of complaints about their treatment by SSA which reflect deteriorating services. Some of these can be explained by the dramatic staffing reductions which have taken place in recent years. The Congress should send a message to SSA that further reductions threaten to damage the agency's ability to maintain its traditionally high level of service. Our bill addresses those problems which result from current SSA practices which would be improved with the requirements set forth in this legislation.

Mr. President, I will cite some examples of Michigan citizens who have contacted me.

SSA mistakenly removed a 100-year-old Michigan man from the rolls when his wife died, cutting his benefits completely. It took 1½ years, and only after my intervention, to have them restored.

A 4-year-old Michigan girl had her disability payments cut because SSA failed to computerize her records. Their reason: The worker responsible for this duty was absent—no other employee was assigned to the task.

To cite another, a 56-year-old man with a mental disorder had his benefits cut after failing to respond to an SSA information request. Unfortunately, the recipient could not comprehend the SSA message, and did not know a response was necessary.

Mr. President, we should amend the law so cases like this do not appear at congressional offices in the first place.

BROAD SUPPORT FOR S. 562

This bill was developed with cooperation from national organizations concerned with the Social Security Program, who helped us in the design and strongly support the approach taken in this legislation. At a hearing on last year's version of the bill before the House Ways and Means Subcommittee on Social Security, the American Association of Retired Persons [AARP] stated the bill, "contains important procedural protection that, if enacted, would help ensure that people receive fair, courteous and responsive treatment from SSA."

Arthur Fleming, former Secretary of Health, Education, and Welfare, supported the bill by stating that it "is targeted at precisely the types of problems that persist at SSA." Fleming was testifying on behalf of Save Our Security, a coalition of over 100 organizations concerned with the Social Security system.

NEW TECHNOLOGY MUST REMAIN RESPONSIVE

I am concerned that SSA is moving toward the use of new technology without considering the implications for the many individuals served by the program. These individuals have traditionally needed more personalized services. A telephone call is often not an adequate substitute for personal contact.

We must assure that individuals receive proper guidance so that they receive the benefits to which they are entitled. S. 562 contains a modest set of provisions that would restore the quality of services to which the public had become accustomed. We must act now to firmly establish in law a set of procedures that are in place for every beneficiary, in any circumstance that may arise.

MAIN PROVISIONS OF S. 562

Overpayments: Requires SSA to collect overpayments without causing the beneficiary financial hardship.

Availability and correction of earnings records: Applicants for benefits automatically furnished with earnings statements and the statute of limitations for correcting errors would be waived.

Assistance to homeless: Requires SSA to establish program to assist homeless in receiving benefits to which they are entitled.

Understandable notice: Requires SSA to write all notices and corre-

spondence in plain, understandable English and contain a phone number and address to contact at SSA.

Standards for determining good faith: Requires SSA to consider limitations—physical, mental, educational, and linguistic—in determining whether a person acted in good faith.

Telephone service center accountability: Establishes demonstration projects at several telephone service centers to examine how SSA can automatically generate a letter to telephone callers regarding the outcome of a conversation; provides record and receipt of contact.

Representation of claimants: SSA must add to a person's records the name of any authorized representative, to facilitate attorneys' access to files.

Decision to appeal rather than reapply: Claimants who were denied a benefit would be told clearly by SSA of the negative consequences of reapplying rather than appealing. Protects right of claimants from losing past benefits because of misinformation from SSA.

Same-day service: Guarantees that individuals who walk in to an SSA office with a time-sensitive case will be seen for an interview that same day.

I hope this package of beneficiary protections will be supported by my colleagues. While they are designed to be clear and absolute in principle, the details of how the principles are to be implemented are largely left to the discretion of SSA.

We've put Social Security on solid financial ground—now we have to make it work and see that people who are entitled to the benefits of the program get proper service.

I urge my colleagues to give their support to this measure, which will improve services for millions of Americans who participate in the Social Security System.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD at this point.

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

S. 562

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 "Social Security Services Improvement Act of 1989".

SEC. 2. STANDARDS GOVERNING COLLECTION OF OVERPAYMENTS.

(a) IN GENERAL.—Subsection (b) of section 204 of the Social Security Act (42 U.S.C. 404(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), any adjustment of payments to, or recovery by the United States from, any person pursuant to subsection (a) shall be on a schedule which will not cause undue financial hardship to such person, as determined according to the facts and circumstances applicable in such person's case.

"(B) Subparagraph (A) shall not apply with respect to any person in any case in which fraud, willful misrepresentation, or concealment of material information was involved on the part of such person in connection with the payment of more than the correct amount upon which the adjustment or recovery is based.

"(C)(i) In the case of any individual who, at the time such individual receives notice of any overpayment of a benefit under this title, is an individual or eligible spouse described in clause (ii) of section 1631(b)(1)(B), section 1631(b)(1)(B) shall apply with respect to any adjustment or recovery pursuant to subsection (a) with respect to overpayments of benefits under this title in the same manner and to the same extent as section 1631(b)(1)(B) applies with respect to an adjustment or recovery pursuant to section 1631(b)(1)(A) with respect to overpayments of benefits under title XVI.

"(ii) The Secretary shall include, in any notice to an individual of an overpayment to such individual of a benefit under this title, a description of the provisions of clause (i) and of the availability of relief provided thereunder.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adjustments made, and recoveries obtained, on or after January 1, 1990.

SEC. 3. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures so as to permit a thorough evaluation of such procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each demonstration project developed and carried out by the Secretary of Health and Human Services with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication,

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate written reports on the progress of each demonstration project conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. Such reports shall include an initial report (relating to the first 180 days of the project), which shall be submitted not later than 270 days after the commencement of the project, and annual reports thereafter for the duration of the project. The final report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—Each report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 4. AVAILABILITY AND CORRECTION OF EARNINGS RECORD INFORMATION.

(a) AVAILABILITY OF EARNINGS RECORD INFORMATION TO APPLICANTS FOR BENEFITS.—Subparagraph (A) of section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)(A)) is amended—

(1) by striking "derived and, upon request, shall" and inserting "derived. Upon request, the Secretary shall"; and

(2) by adding at the end the following new sentences: "Not later than 14 days after the date of any application for benefits under this title, information described in the preceding sentence relating to the wages and self-employment income of any individual on the basis of whose wages and self-employment income such benefits would be based shall be provided to the applicant, irrespective of whether a request is made therefor. Any information provided pursuant to this paragraph in summary form shall include a notice that a complete accounting of such information, categorized by period and by employer, is available upon request. Any report under this subparagraph of such information shall include a

notice that it is possible that one or more items of wages or self-employment income have not been properly included in such information and that such information may be amended, as appropriate, pursuant to submission of a challenge under paragraph (4)(B), or otherwise at the Secretary's discretion in accordance with this subsection.".

(b) CHALLENGES TO EARNINGS RECORD INFORMATION.—Paragraph (4) of section 205(c) of such Act (42 U.S.C. 405(c)(4)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by inserting "(A)" after "(4)";

(2) by striking "After the expiration" and inserting "Except as provided in subparagraph (B), after the expiration"; and

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

"(B) Upon receipt from any person of a written statement challenging the accuracy of the Secretary's records for any period, as indicated by information provided pursuant to paragraph (2) relating to any individual's wages and self-employment income, the Secretary shall provide such person a complete accounting of such wages and self-employment income, categorized by period and by employer, to the extent such a complete accounting has not previously been provided pursuant to paragraph (2). If, upon receipt from the Secretary of such a complete accounting pursuant to this paragraph or paragraph (2), such person demonstrates to the Secretary an erroneous entry of wages in the Secretary's records for any period or an omission from such records of any item of wages for any period, the Secretary shall correct such entry or include such omitted item in the Secretary's records, as the case may be, irrespective of the expiration of the time limitation following such period.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications filed, and requests for information made, on or after January 1, 1990.

SEC. 5. STANDARDS APPLICABLE IN DETERMINATIONS OF GOOD FAITH, FAULT, INTENT, ETC.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"STANDARDS APPLICABLE IN DETERMINATIONS OF GOOD FAITH, FAULT, ETC.

"SEC. 1140. In making any determination of any individual's entitlement to benefits under this Act, the Secretary shall specifically take into account in any determination of—

"(1) whether such individual acted in good faith,

"(2) whether such individual was at fault, or

"(3) fraud, deception, or intent,

any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to determinations made on or after January 1, 1990.

SEC. 6. ASSISTANCE TO THE HOMELESS.

(a) OASDI PROGRAM.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following new subsection:

"Assistance to the Homeless

"(s)(1) The Secretary shall establish a program under which homeless individuals who may be eligible for benefits under this title may be identified and provided reasonable assistance and support in applying for such benefits.

"(2)(A) For purposes of this subsection, except as provided in subparagraph (B), the term 'homeless individual' means—

"(i) an individual who lacks a fixed, regular, and adequate nighttime residence, or

"(ii) an individual who has a primary nighttime residence that is—

"(I) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill),

"(II) an institution that provides a temporary residence for individuals intended to be institutionalized, or

"(III) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

"(B) Such term does not include any individual imprisoned or otherwise detained pursuant to Federal law or the law of any State (as defined in subsection (c)(2)(C)(iv)) or political subdivision thereof.

"(3) Upon the request of the government of any State (as defined in subsection (c)(2)(C)(iv)) or of a political subdivision thereof or of any organization which is exempt from tax under section 501 of the Internal Revenue Code of 1986, the assistance provided by the Secretary under the program established pursuant to this subsection shall include efforts coordinated with such government or organization to encourage and facilitate application by homeless individuals for benefits under this title. Such efforts shall include regular visitation of homeless individuals by employees of the Social Security Administration at primary nighttime residences described in paragraph (2)(A)(ii) and facilities which regularly provide meals to homeless individuals.

"(4) The Secretary shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the status and accomplishments of the program required to be established under this subsection.".

(b) SSI PROGRAM.—Section 1631 of such Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Assistance to the Homeless

"(m)(1) The Secretary shall establish a program under which homeless individuals who may be eligible for benefits under this title will be identified and provided reasonable assistance and support in applying for such benefits.

"(2) For purposes of this subsection, the term 'homeless individual' has the meaning provided in section 205(s)(2).

"(3) Upon the request of the government of any State (as defined in subsection 205(c)(2)(C)(iv)) or of a political subdivision thereof or of any organization which is exempt from tax under section 501 of the Internal Revenue Code of 1986, the assistance provided by the Secretary under the program established pursuant to this subsection shall include efforts coordinated with such government or organization to encourage and facilitate application by homeless individuals for benefits under this title. Such efforts shall include regular visitation of homeless individuals by employees of the Social Security Administration at primary nighttime residences described in section 205(s)(2)(A)(ii) and facilities which regularly provide meals to homeless individuals.

"(4) The Secretary shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the status and accomplishments of the program required to be established under this subsection.".

(c) ESTABLISHMENT OF PROGRAMS.—The Secretary of Health and Human Services shall establish the programs provided for in sections 205(s) and 1631(m) of the Social Security Act (as added by this section) not later than 180 days after the date of the enactment of this Act.

SEC. 7. NOTICE REQUIREMENTS.

(a) GENERAL REQUIREMENTS.—

(1) OASDI PROGRAM.—Section 205 of the Social Security Act (42 U.S.C. 405) (as amended by section 6(a) of this Act) is further amended by adding at the end the following new subsection:

"Notice Requirements

"(t)(1) In any case in which a notice is issued to one or more individuals by the Secretary or by a State agency pursuant to this title, the Secretary shall take such actions as are necessary to ensure—

"(A) that such notice is written in simple and clear language,

"(B) if such notice is directed specifically to a particular individual or a defined group of individuals, that such notice contains the name, address, and telephone number of a responsible person to contact regarding the notice, and

"(C) in any case in which the native language of a substantial number of recipients of such notice is likely to be a language other than English, that such notice is written, to the extent feasible, in both English and such other language.

"(2) Determinations pursuant to paragraph (1)(C) shall be made separately with respect to each district office of the Social Security Administration.".

(2) SSI PROGRAM.—Section 1631 of such Act (42 U.S.C. 1383) (as amended by section 6(b) of this Act) is further amended by adding at the end the following new subsection:

"Notice Requirements

"(n)(1) In any case in which a notice is issued to one or more individuals by the Secretary or by a State agency pursuant to this title, the Secretary shall take such actions as are necessary to ensure—

"(A) that such notice is written in simple and clear language,

"(B) if such notice is directed specifically to a particular individual or a defined group of individuals, that such notice contains the name, address, and telephone number of a responsible person to contact regarding the notice, and

"(C) in any case in which the native language of a substantial number of recipients of such notice is likely to be a language other than English, that such notice is written, to the extent feasible, in both English and such other language.

"(2) Determinations pursuant to paragraph (1)(C) shall be made separately with respect to each district office of the Social Security Administration.".

(b) APPLICABILITY TO BLIND BENEFICIARIES UNDER TITLE II OF NOTICE STANDARDS CURRENTLY APPLICABLE TO BLIND BENEFICIARIES UNDER TITLE XVI.—

(1) IN GENERAL.—Section 221 of such Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of disability by reason of blindness is entitled to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time, but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of disability by reason of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of disability by reason of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) APPLICATION TO CURRENT RECIPIENTS.—Not later than January 1, 1991, the Secretary of Health and Human Services shall provide every individual receiving benefits under title II of the Social Security Act on the basis of disability by reason of blindness an opportunity to make an election under section 221(l)(1) of such Act (as added by paragraph (1)).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after January 1, 1990.

SEC. 8. REPRESENTATION OF CLAIMANTS.

(a) OASDI PROGRAM.—

(1) RECORDING OF IDENTITY OF REPRESENTATIVES IN ELECTRONIC INFORMATION RETRIEVAL SYSTEM.—Section 206(a) of the Social Security Act (42 U.S.C. 406(a)) is amended by adding at the end the following new sentence: "The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this subsection.".

(2) NOTIFICATION OF AVAILABILITY OF ATTORNEYS.—Section 206 of such Act (42 U.S.C. 406) is further amended by adding at the end the following new subsection:

"(c) The Secretary shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the availability of attorneys to represent individuals in presenting their cases before the Secretary. Such notification shall include a written referral to the appropriate local bar referral agency (or other relevant bar referral group) and to the appropriate local legal services offices providing legal services free of charge to qualifying claimants.".

(b) SSI PROGRAM.—

(1) RECORDING OF IDENTITY OF REPRESENTATIVES IN ELECTRONIC INFORMATION RETRIEVAL SYSTEM.—Section 1631(d)(2) of such Act (42 U.S.C. 1383(d)(2)) is amended by adding at the end the following new sentence: "The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this paragraph.".

(2) NOTIFICATION OF AVAILABILITY OF ATTORNEYS.—Paragraph (2) of section 1631(d) of such Act (42 U.S.C. 1383(d)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the availability of attorneys to represent individuals in presenting their cases before the Secretary. Such notification shall include a written referral to the appropriate local bar referral agency (or other relevant bar referral group) and to the appropriate local legal services offices providing legal services free of charge to qualifying claimants.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 9. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) OASDI PROGRAM.—Section 205(b) of the Social Security Act (42 U.S.C. 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to request, during the sixty-day period provided in paragraph (1), review of an adverse determination with respect to an application for any payment under this title shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information provided by or under the Secretary.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) SSI PROGRAM.—Section 1631(c)(1) of such Act (42 U.S.C. 1383(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) A failure to request, during the sixty-day period provided in subparagraph (A), review of an adverse determination with respect to an application for any payment under this title shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that he or she or his or her eligible spouse failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information provided by or under the Secretary.

"(ii) In any notice of an adverse determination with respect to which a review may be requested under subparagraph (A), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply for benefits in lieu of requesting review of the determination.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1990.

SEC. 10. AUTHORITY FOR SECRETARY TO TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANTS IN DETERMINING DATE OF APPLICATION FOR BENEFITS.

(a) OASDI PROGRAM.—Section 202(j) of the Social Security Act (42 U.S.C. 402(j)) is amended by adding at the end the following new paragraph:

"(5) In any case in which it is determined to the satisfaction of the Secretary that an individual failed as of any date to apply for monthly insurance benefits under this title by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for benefits under this title, such individual shall be deemed to have applied for such benefits on the later of—

"(A) the date on which such misinformation was provided to such individual, or

"(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).".

(b) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(4) In any case in which it is determined to the satisfaction of the Secretary that an individual failed as of any date to apply for benefits under this title by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for benefits under this title, such individual shall be deemed to have applied for such benefits on the later of—

"(A) the date on which such misinformation was provided to such individual, or

"(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1959.

SEC. 11. SAME-DAY PERSONAL INTERVIEWS AT FIELD OFFICES OF THE SOCIAL SECURITY ADMINISTRATION IN CERTAIN CASES WHERE TIME IS OF THE ESSENCE.

(a) OASDI PROGRAM.—Section 205 of the Social Security Act (as amended by section 7(a) of this Act) is further amended by adding at the end the following new subsection:

"SAME-DAY PERSONAL INTERVIEWS AT FIELD OFFICES IN CASES WHERE TIME IS OF THE ESSENCE.

"(u) In any case in which an individual visits a field office of the Social Security Administration on a business day of the office and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit to the office is occasioned by—

"(1) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

"(2) the theft, loss, or nonreceipt of a benefit payment under this title,

the Secretary shall ensure that the individual is granted a face-to-face interview at the

office with an officer or employee of the Social Security Administration before the close of business on such day.".

(b) SSI PROGRAM.—Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(4) In any case in which an individual visits a field office of the Social Security Administration on a business day of the office and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit to the office is occasioned by—

"(A) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

"(B) the theft, loss, or nonreceipt of a benefit payment under this title,

the Secretary shall ensure that the individual is granted a face-to-face interview at the office with an officer or employee of the Social Security Administration before the close of business on such day.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990.●

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. HEFLIN, Mr. DASCHLE, Mr. BOREN, and Mr. PELL):

S. 563. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay; to the Committee on Veterans' Affairs.

CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION

Mr. MATSUNAGA. Mr. President, for myself and Senators BURDICK, MOYNIHAN, HEFLIN, DASCHLE, BOREN, and PELL, I rise today to introduce legislation that will permit disabled veterans who are also retired members of the Armed Forces to receive both disability compensation and a portion of their retired pay.

As my colleagues are aware, a century-old statute requires individuals in receipt of veterans disability compensation to offset by an equal amount any retired military pay for which they are eligible. As I noted in earlier statements on this subject, the offset requirement discriminates unfairly against disabled career soldiers by requiring them, in effect, to fund their own disability benefits, a situation faced by no other Federal annuitant. Noncareer disabled soldiers who enter civil service employment, for example, can apply their short military service toward their civil service retirement; without having to forgo any retirement pay, these individuals can receive veterans disability compensation as well.

In our view, and in the opinion of 17 major military and veterans service organizations, the offset rule ignores the proper distinction between military retirement and disability compensation entitlements. Whereas the former is paid to recognize a soldier who has devoted 20 or more of his or her most productive years to our country's defense, the latter is disbursed to compensate a veteran for pain and suffering caused by disabilities incurred in the line of duty. Because the two types of compensation serve two entirely different purposes, receipt of one should not be conditioned on receipt of the other.

Mr. President, this measure is a technical replacement for S. 191, a bill I introduced on January 25, 1989, that was meant to accomplish the same ends. Unfortunately, through a drafting error, S. 191 would not do what was truly intended, that is to permit retired disabled military to receive both veterans disability compensation and a portion of their military retirement pay, with the pay to be based on a percentage of the level of the disability compensation. As an example, my new bill, under the correct formulation, permits a veteran with a 90 percent disability rating to receive military retirement pay minus an amount equal to 10 percent of the disability compensation for which he is eligible. Similarly, a veteran rated 30 percent disabled would be eligible to receive, in addition to his disability compensation, his military retirement pay less an amount equal to 70 percent of his disability compensation.

Mr. President, my colleagues know that in addition to this inverse ratio bill I have also authored legislation, S. 190, to eliminate the offset completely. The bill I am introducing today has been developed to address concerns expressed by many Senators that complete elimination of the offset would be too costly—estimates of the cost of S. 190 range from $700 million to $1 billion a year in outlays. In contrast, I estimate that this bill would result in expenditures amounting to, at most, only a fifth of those associated with S. 190. While I remain convinced that fairness dictates that we endeavor to eliminate the offset completely, I offer this alternative measure today in a spirit of accommodation and in the interest of fiscal responsibility.

Thank you, Mr. President. On behalf of the more than 400,000 retired disabled career soldiers who have been deprived of their full military retirement pay, I urge my colleagues to support this legislation.

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. 563

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

SECTION 1. CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION.

(a) LIMITATION ON DUPLICATION OF BENEFITS.—Section 3104(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting "as provided in paragraph (3) and" after "Except"; and

(2) by adding at the end the following new paragraph:

"(3)(A) A person may be paid emergency officers', regular, or reserve retirement pay concurrently with the payment of compensation for any service-connected disability, except that no amount of retirement pay and compensation may be paid to a person concurrently if payment of the retirement pay and payment of the compensation are based upon the same disability. In the case of a person receiving both retirement pay and compensation, the amount of retirement pay paid such person shall be reduced (but not below zero) as provided in subparagraph (B) of this paragraph.

"(B) The amount by which the retirement pay of a disabled person is reduced under subparagraph (A) of this paragraph shall be—

"(i) if and while the disability is rated 10 percent, the amount equal to 90 percent of the amount of the disability compensation paid such person;

"(ii) if and while the disability is rated 20 percent, the amount equal to 80 percent of the amount of the disability compensation paid such person;

"(iii) if and while the disability is rated 30 percent, the amount equal to 70 percent of the amount of the disability compensation paid such person;

"(iv) if and while the disability is rated 40 percent, the amount equal to 60 percent of the amount of the disability compensation paid such person;

"(v) if and while the disability is rated 50 percent, the amount equal to 50 percent of the amount of the disability compensation paid such person;

"(vi) if and while the disability is rated 60 percent, the amount equal to 40 percent of the amount of the disability compensation paid such person;

"(vii) if and while the disability is rated 70 percent, the amount equal to 30 percent of the amount of the disability compensation paid such person;

"(viii) if and while the disability is rated 80 percent, the amount equal to 20 percent of the amount of the disability compensation paid such person; and

"(ix) if and while the disability is rated 90 percent, the amount equal to 10 percent of the amount of the disability compensation paid such person.

The amount of the retirement pay of a disabled person may not reduced under subparagraph (A) of this paragraph if and while the disability is rated as total.".

(b) TECHNICAL AMENDMENTS.—(1) Section 3104 of such title is further amended by striking out the section heading and inserting in lieu thereof the following:

"§ 3104. Limitation on duplication of payments".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 3104 and inserting in lieu thereof the following:

"§ 3104. Limitation on duplication of payments".

SEC. 2. EFFECTIVE DATE AND PROHIBITION ON RETROACTIVE BENEFITS

(a) IN GENERAL.—The amendments made by this Act shall take effect on the first day

of the second calendar month following the date of the enactment of this Act.

(b) RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of this Act for any period before the effective date of this Act.

By Mr. MATSUNAGA (for himself, Mr. CRANSTON, Mr. MURKOWSKI, Mr. MITCHELL, Mr. DECONCINI, and Mr. INOUYE):

S. 564. A bill to provide for an Assistant Secretary of Veterans' Affairs to be responsible for monitoring and promoting the access of members of minority groups, including women, to services and benefits furnished by the Department of Veterans' Affairs.

ASSISTANT SECRETARY OF VETERANS' AFFAIRS

Mr. MATSUNAGA. Mr. President, for myself and Senators CRANSTON, MURKOWSKI, DECONCINI, MITCHELL, and INOUYE, I rise to introduce legislation to assign an Assistant Secretary of Veterans' Affairs oversight responsibilities for minorities. The Department of Veterans' Affairs Act, which elevates the Veterans' Administration [VA] to Cabinet rank, created six Assistant Secretary positions. Under this bill one of the six would have responsibility for monitoring and promoting access of minorities—including blacks, Native Americans, Hispanics, Asian-Pacific islanders, and women—to veterans services and benefits. As my colleagues are aware, the Elevation Act stipulates 10 functional duties to be assigned among the Assistant Secretaries; my bill would simply add an 11th duty to this list.

The primary purpose of this bill is to ensure that concern for minority veterans is made an integral part of the Department's policymaking process. Hitherto, the unique problems and needs of minority populations, problems and needs that arise from race, gender, culture, history, geography, or other circumstance, have only been addressed in a desultory fashion by the occasional, enlightened health care or benefits employee. Although certain minority advisory bodies have been created by Congress, their recommendations are not always accorded serious review by the Administrator or other policymaking officials and have often been completely ignored. The VA, in short, lacks a proper minorities advocate within its formal decision-making hierarchy. It is therefore not surprising that minority needs are often overlooked or that the VA lacks an overall strategy for improving services and benefits for minority beneficiaries.

Let me briefly touch on some of the problems faced by each of the minority groups covered under the bill.

Mr. President, Native Americans in general live shorter and poorer lives than other groups. The VA's Advisory Committee on Native American Veterans reports that Native Americans significantly underutilize VA benefits and health care services. Though the committee had to base this contention in part on anecdotal data as very little statistical studies have been done on Indian veterans, the evidence is clear that, at least in the case of health care, underutilization is a significant problem. For example, although Indians comprise about 0.6 percent of the total veterans population—about 160,000 men and women—fiscal 1985 data indicates that only 0.4 percent of VA hospital discharges and 0.3 percent of hospitalized patients were Native American. This can be attributed to several factors, including geography, economic conditions, culture, and lack of interagency coordination.

Forty to fifty percent of all Native Americans reside on reservations, which means that they comprise a large portion of the 2.9 percent of veterans who live more than 100 miles from VA medical centers. This distance from VA facilities means that Indian veterans, who are already economically disadvantaged, must have automobiles or other transportation and sometimes the financial wherewithal for overnight stays near VA facilities. Native American cultures frequently differ from the dominant culture in terms of language, understanding, and expectations; attitudes toward illness and disease, such as a belief in traditional healing, may shape a veteran's decision to seek and accept the care offered by the VA. The lack of interagency coordination among the several Federal, State, and tribal agencies with jurisdiction over Native American affairs results in both the inefficient utilization of resources and confusion about the availability of benefits and services.

Mr. President, the situation faced by Native American veterans is mirrored in other minority groups. Hispanic veterans, for example, have played an important role in every one of our Nation's conflicts since the American Revolution. They have consistently been overrepresented as a percentage of wartime casualties, and claim more Congressional Medal of Honor winners per capita than any other ethnic group represented in this great country of ours. As in the case of most minorities, it is not possible to say with any degree of certainty to what extent Hispanic veterans participate in VA programs, although the American GI Forum, the sole Hispanic veterans organization, believes that they do not fully utilize the benefits to which they are entitled. The curtailment of the transportation allowance, for example, has had a disparate effect on lower income groups, particularly the Hispanic community in rural areas where many veterans reside. It is also believed that the relatively high unemployment rate for Hispanic veterans is exacerbated by State veterans' employment representatives who, lacking sensitivity to Hispanic culture or Spanish language skills, cannot meet the needs of Hispanic veterans.

Black veterans and their families account for almost one-third of the black population in the United States; black veterans represent almost 8 percent of the total veterans' population. While the overall veterans' population is projected to decline by the turn of the century, the black population is projected to increase. Blacks today are overrepresented in the military, comprising 21 percent of enlisted ranks and 6.6 percent of officers. As a race, blacks have served their country with honor, valor, and distinction. However, once discharged, they have not always received the benefits accorded other veterans. For example, blacks who served in the Vietnam theater have a higher rate of joblessness than other Vietnam-era veterans; overall black unemployment is 2½ to 3 times that for white veterans. The number of homeless veterans increases every day and the number of black homeless veterans is inordinately large. Statistically, too, black veterans file fewer claims for education or home loan benefits.

Veterans of Asian and Pacific island ancestry, according to the 1980 census, comprise over 212,000 individuals. Many of these compiled distinguished war records out of proportion to their numbers. The nearly all Japanese-American "Go for Broke" division, for instance, sustained among the highest number of casualties for World War II combat units, and was awarded an extraordinary number of decorations for valor. This enviable record of service reflected, perhaps, a desire for recently arrived immigrant groups to integrate themselves into the national fabric. This impulse to "prove" themselves was reinforced by strong traditions of duty and honor.

However, as with other minorities, these same traditions also shape attitudes toward the seeking of care and benefits offered by Federal agencies such as the Veterans' Administration. In my own State of Hawaii, Asian and Pacific islander veterans tend to present themselves for treatment at lower rates than other veterans, not because they are healthier than other veterans, but because of a culturally induced reluctance to impose on the Federal Government for assistance. I am convinced that this cultural attitude is a major reason why Hawaii ranks among the lowest of the VA's jurisdictions in medical dollars per veteran and why it is one of only two States without a VA medical center. It was only until 2 years ago, when the Senate Veterans' Affairs Committee held oversight hearings in Honolulu, that the true extent of the VA's neglect of Hawaii veterans became apparent and actions were begun to redress the situation. In my opinion, the

situation could have been avoided if the VA had taken the time to understand the particular needs of each of the minority veterans groups under its care.

Women veterans were brought into military service for the first time in large numbers in World War II because they were badly needed. Although the women's component of the military was to have been phased out after the war, they remained by virtue of their demonstrated record of service. They remained as part of the peacetime military. Their participation, as we know, continued through the Korean and Vietnam wars to reach a level of over 10 percent. Today, there are over 220,000 women on active duty in the Armed Forces and their numbers are projected to increase in the coming years even though the total force is projected to decline. Women veterans are currently the fastest growing segment of the veteran population; female veterans comprise 4.3 percent of the total veterans' population and number almost 1.2 million. Although the VA has responded aggressively in many instances to women's needs in the past few years, much remains to be done. The VA's Advisory Committee on Women Veterans stated in its 1988 report that an ongoing concern is the fact that women are still less aware than male veterans of the benefits to which they are entitled and that, even when aware, they are less likely to claim them. Another continuing problem is the inability of public employment offices to place women veterans, particularly former enlisted women, in jobs and at wage levels commensurate with their military experience. And, as with all other minority veterans, statistical data on the use of benefits by women veterans remains sadly deficient.

Mr. President, I am quite sure that this measure will be misunderstood by some. Many otherwise well-meaning individuals, without bothering to examine the special situation of minority veterans, will argue that the VA serves veterans with a blind eye toward color, heritage, or gender, and that therefore a minorities oversight function is unnecessary.

These erstwhile egalitarians will state that "a veteran is a veteran is a veteran"—that, for example, a Filipino-American veteran suffering from post traumatic stress disorder [PTSD] is eligible for the same treatment that is provided a white PTSD victim. My reply would be that the same care is not the same as equal care. Recent scientific study points to evidence that Asian-American veterans' experience of the Vietnam war was qualitatively different from that of their white counterparts. As such, it is probable that the the diagnosis and treatment of the Filipino veteran suffering from PTSD would differ from that of a white veteran. Unfortunately, because the VA has not recognized the need to examine the disorder in small minority populations, very little is known about PTSD in Asian Americans. Even the recently completed national Vietnam veterans readjustment study, touted by the VA as the definitive study on the psychological problems of Vietnam veterans, does not include data on Asian-American veterans, Native American veterans, or other small minority group. Why? Simply because they constitute only a small segment of the veterans' population. Therefore, the VA lacks even the basic statistical information on PTSD with respect to many minority populations, information which is crucial to their full postwar readjustment.

Let me offer another example. As I noted earlier, nearly half of all Native Americans live on reservations, lands which are held in trust by the U.S. Government. These lands are considered tribal, or community-owned, property. This fact, in addition to the endemic unemployment that plagues Indian communities, makes it difficult for Native American veterans to obtain home loans. As my colleagues know, the VA will guarantee a portion of a veteran's loan, provided of course that he is first able to find a bank that is willing to offer him a loan. But how many banks are willing to issue a mortgage to a veteran whose opportunities for gainful employment are sharply limited and whose house, because it stands on nontransferrable tribal land, has little security value and is inherently difficult to resell in the event of default? This situation is not unique to Amerian Indians. Veterans in American Samoa, among others, are in similar circumstances. One solution to this problem might be to revive the VA's direct loan program in limited and modified form to accommodate veterans living in special circumstances. Unfortunately, the VA has not seriously entertained this possibility, adhering as it does to a rigid application of the general rule that the Government should not be involved in so-called commercial activities.

These are typical examples of the quiet neglect—inadvertent perhaps—that persists in a bureaucracy that has not been completely sensitized to the concerns of minority veterans. While establishing a minorities function at the Assistant Secretary level might not guarantee that these problems would be solved, it would at least ensure that the problems are recognized and seriously considered.

Mr. President, this bill does not intend to set minority veterans above other veterans. It does, however, imply that minority veterans, because of an agencywide ignorance of their particular circumstances, have been receiving a lower level of services and benefits afforded other veterans. As such, the intent behind this measure is to enable minority veterans, through the advocacy of a high-level Department official, to seek the full range and level of services and benefits to which they are entitled. I can think of no better time than now, when the Nation's veterans prepare to take their rightful place in the President's Cabinet, to address this important issue.

In closing, Mr. President, I would like to thank Senator CRANSTON and Senator MURKOWSKI, the chairman and ranking minority member of the Senate Veterans' Affairs Committee, for their invaluable assistance in drafting this measure. I urge my colleagues to support this legislation, and 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. 564

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

SECTION 1. SPECIAL RESPONSIBILITIES OF AN ASSISTANT SECRETARY OF VETERANS AFFAIRS.

(a) POSITION AND FUNCTIONS OF ASSISTANT SECRETARY.—Section 4 of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2638) is amended by adding at the end of subsection (b) the following new paragraph:

"(11) The review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans and the development and implementation of policies facilitating access of such veterans to services and benefits provided under laws administered by the Department.".

(b) "MINORITY VETERAN" DEFINED.—Section 4 of such Act is further amended by adding at the end the following new subsection:

"(h) DEFINITIONS.—As used in this section:

"(1) The term 'minority veterans' means—

"(A) black veterans;

"(B) Native American veterans;

"(C) Hispanic-American veterans;

"(D) Asian-Pacific Islander American veterans; and

"(E) women veterans.

"(2) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code.

"(3) The term 'Native American' means an Indian, Native Hawaiian, or an Alaska Native.

"(4) The term 'Indian' has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a)).

"(5) The term 'Native Hawaiian' has the meaning given that term in section 815(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

"(6) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(7) The term 'Asian-Pacific Islander' means any person, other than a Native American, whose ancestral origin is in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent of Asia, or the Pacific Islands (including

China, Japan, Korea, the Philippine Islands, and Samoa).".

By Mr. MATSUNAGA (for himself, Mr. GARN, Mr. GORE, Mr. GLENN, Mr. DANFORTH, Mr. CRANSTON, Mr. MITCHELL, Mr. DOLE, Mr. SIMPSON, Mr. SIMON, Ms. MIKULSKI, and Mr. HOLLINGS):

S.J. Res. 75. Joint resolution relating to NASA and the International Space Year; to the Committee on Foreign Relations.

NASA AND THE INTERNATIONAL SPACE YEAR

Mr. MATSUNAGA. Mr. President, I rise to introduce a joint resolution relating to an initiative of the U.S. Congress that has developed into a worldwide activity of immense significance. I am referring to the International Space Year, or ISY, in 1992. The ISY will consist of space activities coordinated on a global basis, from space missions to classroom activities and public expositions. It will be a yearlong worldwide celebration of humanity's future in space, commemorating the 500th anniversary of Columbus' voyage to the New World and the 35th anniversary of the International Geophysical Year, or IGY, that ushered in the space age.

I had the pleasure of first proposing the ISY in 1985 and embodying it in legislation introduced with my distinguished colleague from Utah, Mr. GARN, as original cosponsor. The resolution called upon President Reagan to direct NASA to investigate the feasibility of an ISY and report to Congress in spring 1986. Our joint resolution—a companion measure which was introduced by Representatives NELSON and WALKER in the House—met with unanimous support and was incorporated into the NASA authorization for 1986.

Subsequently, in May 1986, President Reagan delivered NASA's ISY report to Congress. NASA said it had received an "overwhelming positive" response to its international inquiries on ISY. NASA recommended moving ahead on an ISY with emphasis on space science, human exploration, utilization of space for humanity, and education, and with priority to the theme of "Understanding the Earth as a Planet." In a letter to Congress accompanying NASA's report, President Reagan endorsed the ISY and directed NASA to lead an interagency effort to develop the concept domestically and internationally.

The ISY's subsequent progress was remarkable. International scientific and engineering societies established ISY planning committees and began soliciting proposals. In our case, the National Academy of Sciences offered a range of proposals that paralleled the themes and emphases of NASA's recommendations.

In August 1987, the first major international ISY conference was held in Hawaii, through the efforts of an organizing committee of United States and Japanese space scientists, working with the University of Hawaii and the newly formed U.S. International Space Year Association. I was invited to serve as honorary cochairman of that conference, along with the Honorable Tetsuo Kondo, Japan's Minister of Economic Planning. The science program cochairmen were the space science heads of NASA and their Japanese counterpart; and the industry program cochairmen were the presidents of the Aerospace Industries Association of America and the Space Committee of the Keidanren, Japan's council of economic organizations. Working groups of space agency officials, scientists, and industrialists developed a wide range of ISY proposals in the categories of Earth observation, communications, astrophysics, space facilities, space industrialization, and planetary science. The Hawaii conference proved the ISY's wide-ranging potential.

The most significant event in the ISY's rapid evolution occurred last spring when NASA asked the U.S. International Space Year Association to organize an ISY planning conference in New Hampshire that brought together senior officials from 17 space agencies around the world. This was the largest space summit ever held and it offered dramatic testimony of the ISY's worldwide appeal. The New Hampshire conference had two crucial outcomes:

First, it led to the establishment of a space agency ISY coordinating body called the Space Agency Forum on ISY, or SAFISY. SAFISY had 17 charter members. It has since grown to 23 members, and more will join at the next SAFISY summit in Frascati, Italy in May, hosted by the European Space Agency.

Second, SAFISY endorsed Mission to Planet Earth as a primary theme of the ISY and called on the world's space agencies to submit detailed specifications of all their Earth observing spacecraft in operation or planned for the next decade, so that a major coordinating effort could be initiated.

SAFISY also agreed to establish advisory committee for Earth science, the other space sciences, education and applications. Those committees will prepare recommendations for annual SAFISY summit meetings that will be hosted on a rotating basis—1989, European Space Agency; 1990, Japan; 1991, U.S.S.R.; 1992, United States.

The most rapid development has occurred in Earth science, which will be the ISY's centerpiece. Besides the steps outlined above, NASA has initiated an important greenhouse detection project that other space agencies are joining and that will deliver results in 1992. Other environmental monitoring projects are in the works. Inspired by the ISY, planning for a Mission to Planet Earth of unprecedented scope and complexity, aimed at monitoring and eventually predicting global environmental problems so that they can be managed for the benefit of humanity, is well underway. On those grounds alone, the ISY already can be judged a historic success, and NASA deserves the admiration and applause of the entire world community for its leadership in this great effort.

But there will be other inspiring ISY themes as well. Indeed, the superordinate message of the ISY is that space is also an Age, like the Renaissance. The ISY marks the transition to that new age of boundless potential. Its core of Mission to Planet Earth activities will be complemented by other activities that seek to profit from the growing complementarity and redundancy of national space programs in order to maximize efficiency and reduce costs. Space is BIG, and the inhabitants of our tiny planet have to work together if they hope to conquer it.

Obviously, that expansive space age perspective is not the exclusive property of space specialists. It also belongs to the general community. The ISY, as I mentioned, will encourage public activities across the broadest possible front. Television programs, films, student exchanges, contests, and many other types of activities are being planned. There will be no supranational managing authority for the ISY. Instead, everyone is invited to participate in the democratic spirit of the space age. As NASA Administrator James C. Fletcher says in a U.S. International Space Year Association brochure: "The ISY, like the new era it celebrates, offers opportunities for everyone to participate in charting a boundless future for humanity."

Mr. President, the resolution I am introducing today has as its original cosponsors Senator GARN, Senator GLENN, Senator GORE, Senator DANFORTH, Senator MIKULSKI, Senator MITCHELL, Senator DOLE, Senator SIMPSON, Senator SIMON, and Senator HOLLINGS.

I am delighted that these Senators who have special expertise and responsibilities in space matters have joined as original cosponsors in the bipartisan spirit of the ISY. In essence, our resolution congratulates NASA for the admirable international and domestic leadership it has shown in developing the ISY and it asks President Bush to endorse the ISY, to invite the American public to develop ISY activities, and to direct NASA to continue to develop ISY activities and report to Congress later this year on its progress.

Mr. President, the chairman of the Space Agency Forum on ISY is Prof. Hubert Curien, French Minister of Research and Technology and former head of the French space agency. Professor Curien was also chairman of the conference in New Hampshire last spring, hosted by NASA, when SAFISY was established. In his concluding remarks at the New Hampshire conference, before an audience including senior officials of 17 national space agencies or equivalent bodies, Professor Curien said:

We are now sure of the success of the ISY and we will work for it. Two years to go from an idea to a reality is a very short time, and it is proof that the idea was a very good and timely one.

Mr. President, those words by a distinguished foreign government official and scientist compliment not only the ISY. They compliment the U.S. Congress where the ISY originated. We should recognize the applause we are receiving from abroad, take pride in our achievement, and encourage its promising development. I urge my colleagues to join in supporting a resolution dedicated to a new era of exploration, discovery, and global cooperation on the space frontier.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 75

Whereas in 1985 Congress proposed an International Space Year (ISY) for 1992, commemorating the 500th anniversary of Columbus' voyage to the New World and the 35th anniversary of the International Geophysical Year that ushered in the space age;

Whereas Congress also requested the President to endorse the ISY and to initiate interagency and international discussions for an ISY;

Whereas in 1986 President Reagan endorsed the ISY and reported to Congress that NASA had found worldwide support for an ISY in 1992, consisting of space activities coordinated on a global basis, and the President directed NASA to move the concept forward internationally and to lead an interagency effort for domestic activities.

Whereas NASA has exercised admirable leadership, through the Office of Space Science and Applications and the Division of International Relations, in establishing the Space Agency Forum on ISY (SAFISY) to coordinate ISY planning, with a current worldwide membership of 23 national space agencies or equivalent bodies;

Whereas SAFISY planning is accelerating, with particular emphasis on coordinating current and planned space agency activities so as to improve efficiency and maximize scientific and economic return on space investments;

Whereas the ISY also is generating numerous educational activities, including classroom activities, films, television programs, that will greatly improve public understanding of the significance and potential of the space age: Now, therefore, be it

Resolved by the Senate and House of Represenatives of the United States of America in Congress assembled, That it is the sense of the Congress that the President should—

(1) Endorse the ISY and consider the possibility of discussing the ISY with foreign leaders;

(2) Invite the American public to develop ISY activities that foster the cooperative spirit of the ISY;

(3) Direct NASA to continue to develop ISY activities through SAFISY, with a primary emphasis on Mission to Planet Earth, but also with a strong emphasis on the other space sciences, human exploration, education, and developing nations applications;

(4) Report to Congress at the earliest practicable date, but no later than June 1, 1989, on the steps taken to carry out items (1) through (3) above, including a list of all current and planned NASA initiatives in each of the categories mentioned in item (3).

Mr. GLENN. Mr. President, as the world has marched swiftly and steadily into the space age, the opportunities and benefits of international space cooperation have increased apace. Recognizing this development, the 99th Congress passed a resolution calling for the declaration of 1992 as the International Space Year.

Senate Joint Resolution 75 reaffirms congressional support for the International Space Year. The intent of the resolution set before the Senate by the junior Senator from Hawaii today is to endorse International Space Year efforts that have already been undertaken, and to encourage the new administration to redouble those efforts. 1992 is now only 3 years away, and plans have to be made immediately if the full potential of the International Space Year is to be exploited.

WHY INTERNATIONAL SPACE COOPERATION?

The reasons for promoting international space cooperation are compelling. Put simply, such cooperation will maximize the benefits of national space efforts and minimize their cost.

As the United States struggles to get its budget deficit under control, the cost efficiency of international space cooperation is an especially important consideration. Each nation has special strengths to offer, both in terms of infrastructure and human resources. And, of course, many nations have significant financial resources to contribute to international space ventures as well.

Looming threats to the habitability of our planet posed by global change also counsel in favor of international space cooperation. Human-induced changes in the environment such as greenhouse warming, ozone depletion, and deforestation are not national problems that can be solved by national solutions. They are threats that are transnational in scope—threats which are forcing us to come to a new understanding of the term "global security".

Earth-observing satellites play an increasingly important role in monitoring global change phenomena. Indeed, by 1992 over 20 satellites will have been deployed by more than half a dozen nations for the sole purpose of studying global change.

These satellites have the unique ability to take truly global measurements. Further, they are vital to our attempt to understand how seemingly discrete environmental phenomena relate with one another in a unified Earth system.

MISSION TO PLANET EARTH

But the scientific value of these missions will be substantially diminished unless plans are made to coordinate national global change monitoring efforts. Representatives from 17 national space agencies acknowledged as much last spring when they adopted a "Mission to Planet Earth" as a major theme of the International Space Year.

A major objective of Mission to Planet Earth is to ensure that satellite data relevant to global change research is collected and processed in a way that allows for it to be easily accessed and effectively used. Toward this end, plans have been made to establish international data format standards and information management systems capable of integrating, analyzing, and distributing vast amounts of data.

This ISY Program will involve the efforts of developing, nonspacefaring nations as well as those of satellite-launching countries. By consolidating information obtained from outposts on land and vessels at sea with data received from instruments in space, the ISY promises to generate the most comprehensive and useful database on international change ever created.

The goals of an international Mission to Planet Earth and the concrete steps already taken to launch one are worthy of the highest praise. This program is an excellent example of the practical and very concrete ways in which the ISY can support international space cooperation.

EXPANDING THE REALM OF ISY ACTIVITY

As laudable a program as Mission to Planet Earth is, however, planning for the International Space Year should not stop there. Indeed, it is the intent of the International Space Year resolution not only to endorse efforts that have already been made on behalf of the ISY, but to encourage even bolder initiatives.

Since the idea for an International Space Year originated in this very Chamber, I think we have the responsibility to see to it that the International Space Year realizes its potential.

In the area of space exploration, for instance, there are significant opportunities for international cooperation. And I am not referring to programs like an international mission to Mars

which are presently plagued by substantial political and technical obstacles. I am talking about cooperation that—by building a foundation of knowledge and trust—can help us overcome those obstacles so that these bolder forms of cooperation can be pursued.

One area where cooperation would be especially useful is the preparation of humans for long-duration space flight. Learning how to keep humans in space for long periods of time is essential if we are to seriously consider human exploration of the planets at any time in the future.

The ISY could pave the way for much greater cooperation in this area than currently exists: There needs to be a greater exchange of national space biology data; universal criteria for national studies need to be developed so that those findings are more comprehensible to the international scientific community; and, as is the case with the Mission to Planet Earth, data formats have to be standardized to maximize the value of the data.

Research on long-duration flight is only one of many areas where the world stands to gain through international space cooperation, and the International Space Year promises to be a powerful tool to focus such cooperation.

But whether or not the ISY fulfills its potential will depend, in large part, on the level of support the United States gives these efforts. The commitment of the U.S. Congress to the International Space Year is reaffirmed by Senate Joint Resolution 75, and I urge my colleagues to join me in lending support to this important resolution.

Mr. GARN. Mr. President, as my distinguished colleague from Hawaii mentioned, the International Space Year has come a long way since he and I introduced legislation proposing it in 1985. Our resolution passed the Senate unanimously and its contents were incorporated into the NASA authorization for 1986. In the light of the ISY's remarkable development, that authorizing language is acquiring considerable historic significance. It is instructive to recall the report language accompanying that authorization as an important reminder of original congressional intent in proposing the ISY. The 1986 NASA authorization report language stated as follows:

SECTION 15

It is the sense of the conferees that the year 1992 is ideally suited to the establishment of an International Space Year (ISY). The year 1992 marks the five hundredth anniversary of the discovery of America by Christopher Columbus. Spain will commemorate the discovery of America by launching an Hispanic communication satellite in 1992. Moreover, 1992 is the thirty-fifth anniversary of the International Geophysical Year (IGY), when the first artificial satellites were launched, thus marking the beginning of the space age. As a sequel to the IGY, an International Geosphere/Biosphere program is planned for the early 1990's but its space activities will be limited to Earth observation. The conferees believe that space exploration has made enormous strides since the IGY and deserves concerted worldwide commemorative recognition and engagement. In addition to providing commemorative attention, the conferees believe that an International Space Year in 1992 could help maximize budgetary efficiency and scientific gain.

It is the sense of the conferees that the President should endorse the concept of an International Space Year for 1992 and consider the possibility of discussing the ISY with other foreign leaders. In addition, the Administration of NASA in association with other relevant public and private agencies, should initiate interagency and international discussions that explore the opportunities for an ISY in 1992. Such discussions should address possible missions and research and educational activities of an international character, including the possible inclusion of current plans and programs into an ISY framework.

The conferees have agreed on the language contained in section 115 in the conference report that requires the President to submit to Congress at the earliest practicable date, but not later than May 1, 1986, a report on any action taken with respect to the establishment in 1992 of an International Space Year. The report shall include descriptions of possible international missions and related research and educational activities and such other activities as the President may deem appropriate.

It is significant that the authorizing language distinguished between three activities—the International Space Year; the International Geophysical Year, or IGY, that helped inspire it; and the International Geosphere Biosphere Program, or IGBP, that is scheduled during the ISY timeframe. Congress noted that the IGBP also was inspired in part by the IGY but that its space activities were limited to Earth observation. Congress further noted that an ISY would complement the IGBP's Earth observing activities with other space exploration activities. The clear intent was that the ISY should be developed in a much broader context than both IGY and IGBP.

NASA's report to Congress of May 1986, delivered with a letter of strong approval from President Reagan, proposed four major ISY themes in keeping within original congressional intent—discovery, with a focus on space science, exploration, involving the human imperative to seek new worlds; utilization of space for humanity; and education that involves the public.

The National Academy of Sciences, at NASA's urging, subsequently prepared a report that further developed those themes. Under program elements, the Academy report listed four categories—astrophysics, planetary exploration, Earth observation, and preparing humans for long-duration flight. The report also endorsed public education activities.

Those reports were prepared in 1986 and 1987. Since then, NASA appears to have limited its ISY programmatic effort to Earth observation. I'm a strong supporter of Mission to Planet Earth. I wholeheartedly support its establishment as a primary theme of the ISY, but I'm also concerned about the absence in NASA's otherwise admirable initiative of other space activities originally intended by Congress, the President, the National Academy of Sciences, and NASA itself.

It is important to keep in mind that the ISY will greatly affect public perceptions of what our Space Program is all about. If the International Space Year is perceived by the public as an International Earth Year, which is where it seems to be heading right now, the public will acquire an extremely limited view of our Space Program and of space exploration as a whole, and original congressional intent will be denied.

Perhaps my concern is premature, but time is running short. I would be grateful if the distinguished chairman of the space authorizing subcommittee, which will handle this resolution, would care to comment on these points.

Mr. GORE. I'd be very happy to address the justified concerns of the distinguished Senator from Utah. First, I want to say that, along with him, I believe that Mission to Planet Earth should be a primary theme of the ISY and I applaud NASA for its leadership in developing that theme through the NASA-initiated Space Agency Forum on ISY. The issues addressed by Mission to Planet Earth are of immediate practical concern and the benefits also respond to the immediate needs of Government policymakers and the public.

At the same time, however, I agree that the ISY should include a broader range of space activities as intended by Congress. In addition to the legitimate reasons cited by my distinguished colleague, I'd like to note that the original authorizing language cited the ISY as an opportunity to "maximize budgetary efficiency and scientific gain" from space activities. Those words were true in 1985 and they are even truer in 1989 when we face record budget deficits while national space programs grow increasingly complementary. Without compromising independent national capabilities, there is a great and growing need for increased coordination among space programs.

Indeed, the major thrust of ISY Mission to Planet Earth is in the area of improving coordination of existing and planned programs so as to increase efficiency and maximize scientific return. What's true of Earth observation is also true of other space activities. The ISY offers an ideal opportunity for space agencies to examine

how they might coordinate their short- and long-term activities in a manner that serves their mutual interests. On Earth, national highways systems, national telephone systems, mail systems, medical research efforts, and other such activities are interlinked for the sake of efficiency without compromising national programs in the slightest. The ISY could introduce that basically accepted approach to space exploration planning.

So I agree with my distinguished colleague and I would like to point out that the resolution we are cosponsoring calls upon NASA to develop, in addition to Mission to Planet Earth, ISY activities in other space sciences, human exploration, education, and Third World development. The resolution also requires a report from NASA on initiatives in each of those categories. I'm presuming that NASA already has begun those initiatives in keeping with the original ISY concept, and I look forward to learning more about them. The ISY could improve efficiency and maximize scientific return for many space activities through the Space Agency Forum on ISY that NASA has taken the lead in establishing. It also has great potential for promoting space age perspective among the general public. Those opportunities should not be lost. I assure my distinguished colleague that this issue will be closely monitored.

Mr. GARN. I thank the distinguished Senator from Tennessee for his insightful and reassuring comments on planning for the International Space Year. I agree that the ISY offers a great opportunity for developing a broad perspective on space exploration and am delighted by his commitment to that objective. I also share his applause for NASA's admirable leadership in carrying the ISY forward internationally and domestically. The International Space Year will be a tribute to American leadership on the space frontier. I look forward to it with great anticipation.

By Mr. HELMS (for himself, Mr. HEFLIN, Mr. DIXON, Mr. COCHRAN, Mr. EXON, Mr. WARNER, Mr. HOLLINGS, Mr. STEVENS, and Mr. MURKOWSKI):

S.J. Res. 76. Joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week"; to the Committee on the Judiciary.

FOOD SCIENCE AND TECHNOLOGY WEEK

Mr. HELMS. Mr. President, I am today introducing a resolution to designate the week beginning June 25, 1989, as "Food Science and Technology Week." Cosponsors of Senate Joint Resolution 76 are Senators HEFLIN, DIXON, COCHRAN, EXON, WARNER, HOLLINGS, STEVENS, and MURKOWSKI.

The abundant supply of safe, nutritious, and affordable foods in America is in large measure attributable to the field of food science and technology. Through the use of scientific skills and knowledge, food scientists and technologists in the United States, working in education, industry, and government, have advanced the production, processing, preservation, evaluation, and distribution of nutritious, safe, and acceptable foods.

As the population increases throughout the world, it is imperative that we continue to develop new and improved foods at a reasonable cost. The United States has been a leader in this field, which has helped assure that farm products reach consumers in a safe, high-quality, and affordable form; and countries around the world look to the United States for efficient and productive research and development.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S.J. Res. 77. Joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty; to the Committee on Rules and Administration.

NATIONAL FALLEN FIREFIGHTERS' MEMORIAL

● Mr. SARBANES. Mr. President, today I am introducing a joint resolution, together with my colleague, Senator MIKULSKI, recognizing the National Fallen Firefighters' Memorial located on the campus of the National Fire Academy in Emmitsburg, MD, as the official national memorial to our Nation's firefighters—volunteer as well as career—who have died in the line of duty. A companion measure is being introduced today in the House by Representative BEVERLY BYRON.

Established in 1981, the Fallen Firefighters' Memorial in Emmitsburg has become a national symbol of honor and hope for members of the fire service and their families. It is the first Federal monument in our history to honor career and volunteer fallen firefighters. It is dedicated not only to the memory of those who have made the ultimate sacrifice in service to their fellow citizens, but also salutes current and future firefighters who carry on this noble tradition of protecting life and property. At its location on the campus of the National Fire Academy, the Emmitsburg monument serves as a constant reminder to the thousands of firefighters attending the academy of the need to improve methods for handling fire and emergency disaster situations in an effort to prevent future deaths and reduce destruction due to fire.

The memorial is a sculptured bronze Maltese Cross—a symbol adopted throughout the centuries representing those who provide aid in times of distress. The cross rests on a stone cairn and an eternal flame burns at its base. Each year on the Sunday immediately following National Fire Prevention Week, a memorial service is conducted at this site, and a plague is unveiled at the base of the monument inscribed with the names of those men and women who died the previous year in the line of duty. The service is attended by hundreds of family members and fellow firefighters from across the Nation who come to honor the courage of the fallen firefighters.

There is strong support to provide national status for this memorial. All 11 member organizations of the Joint Council of National Fire Service Organizations have endorsed the National Academy site as the most appropriate location for a National Fallen Fighters' Memorial. The Director of FEMA, Julius W. Becton, Jr., has also expressed enthusiastic support for this effort. I ask unanimous consent that his letter be made part of the RECORD immediately following my statement.

Mr. President, each year over 100 career and volunteer firefighters lose their lives in service to their communities. With this resolution, we recognize the sacrifice these brave men and women and their families have made. I urge swift consideration and approval of the resolution.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 77

Whereas the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, honors the approximately 160 volunteer and career firefighters who die each year in the line of duty; and

Whereas such Memorial serves as a symbol of the courage and dedication of past, present, and future firefighters in their efforts to protect life and property: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the memorial known as the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, is recognized as the official national memorial to volunteer and career firefighters who die in the line of duty.

FEDERAL EMERGENCY MANAGEMENT AGENCY,
Washington, DC.

Hon. PAUL SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: As you are aware, the House passed legislation in October to recognize the monument at the National Fire Academy at Emmitsburg, Maryland, as the National Fallen Firefighters Memorial honoring the firefighters who have lost their lives in the line of duty. This bill, H.J. Res. 328, is currently pending in the Senate Rules and Administration Committee. I want to take this opportunity to let you

know of my support for H.J. Res. 328 and to encourage the Senate to act favorably upon it.

The permanent Fallen Firefighters Memorial was unveiled and dedicated in October of 1981, at the site of the National Fire Academy at Emmitsburg, Maryland. Since that time, it has been recognized as a national symbol to members of the fire service. During October each year, at the conclusion of Fire Prevention Week, the families of the fallen firefighters travel to Emmitsburg, Maryland, to attend the service in memory of the fallen firefighters who died in the line of duty during the previous year.

Today's firefighters, whether career or volunteer, in large departments or small, are committed to a profession which is extremely dangerous and which tests the critical human qualities of strength, endurance, dedication and courage. The Fallen Firefighters Memorial at the National Fire Academy honors all firefighters, career and volunteer alike.

Any national memorial for fallen firefighters should recognize both career and volunteer firefighters. The Fallen Firefighters Memorial at Emmitsburg, Maryland, assures that the invaluable contributions made by volunteerism do not go unheralded.

The co-location of the Memorial at the site of the National Fire Academy is ideal. It allows the greatest number of firefighters and fire officers from every state of the Union to view it as they attend National Fire Academy courses.

All eleven members of the Joint Council of National Fire Service Organizations who represent the preeminent fire service constituency organizations have enthusiastically endorsed the National Fire Academy site in Emmitsburg, Maryland, as the most appropriate location of a National Fallen Firefighters Memorial.

It is regretful that the Fallen Firefighters Memorial at the National Fire Academy was not named as a national memorial at the time of its inception in 1981, and I am hopeful that the Senate will follow the House's lead and take steps to correct this situation.

Sincerely,

JULIUS W. BECTON, Jr.,
Director.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 89, a bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986.

S. 195

At the request of Mr. PELL, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. BREAUX], the Senator from South Dakota [Mr. DASCHLE], the Senator from Kentucky [Mr. FORD], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 195, a bill entitled the "Chemical and Biological Weapons Control Act of 1989."

S. 339

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 339, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 342

At the request of Mr. DANFORTH, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 342, a bill to amend the Internal Revenue Code of 1986 to provide that certain credits will not be subject to the passive activity rules, and for other purposes.

S. 346

At the request of Mr. WIRTH, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Wisconsin [Mr. KOHL], the Senator from Illinois [Mr. SIMON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arkansas [Mr. PRYOR], the Senator from Tennessee [Mr. SASSER], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 358

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 358, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

S. 384

At the request of Mr. CHAFEE, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 384, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 391

At the request of Mr. DOMENICI, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 391, a bill to reform the budget process.

S. 406

At the request of Mr. JOHNSTON, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 406, a bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

SENATE JOINT RESOLUTION 42

At the request of Mr. PACKWOOD, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 42, a joint resolution to designate March 16, 1989, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 47

At the request of Mr. PRESSLER, the names of the Senator from Maryland [Mr. SARBANES], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. LUGAR], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. COATS], the Senator from Arkansas [Mr. PRYOR], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 47, a joint resolution to recognize the 75th anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Mr. SIMON], the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 68

At the request of Mr. BYRD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 68, a joint resolution to designate the month of May 1989 as "Trauma Awareness Month."

SENATE JOINT RESOLUTION 69

At the request of Mr. CRANSTON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 69, a joint

resolution designating April 8, 1989, as "Chief Justice Earl Warren Day."

SENATE JOINT RESOLUTION 72

At the request of Mr. RIEGLE, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate the period commencing May 7, 1989, and ending May 13, 1989, as "National Correctional Officers Week."

SENATE CONCURRENT RESOLUTION 8

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Concurrent Resolution 8, a concurrent resolution expressing the sense of the Congress regarding the need for the negotiation of an international agricultural conservation reserve treaty.

SENATE RESOLUTION 61

At the request of Mr. DIXON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Resolution 61, a resolution expressing the sense of the Senate on the sale of F-16 fighter aircraft technology from General Dynamics to Japan's Mitsubishi Heavy Industries as part of the United States-Japan FSX codevelopment fighter program.

SENATE CONCURRENT RESOLUTION 19—AUTHORIZING THE PRINTING OF A COLLECTION OF INAUGURAL ADDRESSES OF THE PRESIDENTS OF THE UNITED STATES

Mr. FORD (for himself and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 19

Resolved by the Senate (the House of Representatives concurring), That a collection of the inaugural addresses of the Presidents of the United States, from President George Washington to and including President George H. W. Bush, compiled from research volumes and State papers by the Congressional Research Service, Library of Congress, be printed with illustrations as a Senate document; and that 16,200 copies thereof be printed, of which 5,150 copies shall be for the use of the Senate and 11,050 copies shall be for the use of the House of Represenatives.

SEC. 2. Copies of such document shall be made available pro rata to Members of the Senate and House of Representatives for a period of sixty days, after which time any copies not used by the Members of either the Senate or the House of Representatives, respectively, shall revert to the Document Room of the Senate or of the House of Representatives, respectively.

Mr. FORD. Mr. President, I am today introducing with my colleague, Senator STEVENS, a concurrent resolution that would authorize the publication of Presidential inaugural addresses from President George Washington to, and through, President George Bush.

This collection was last published in 1973 by act of the 93rd Congress, and has not been revised since then. Since we this year are commemorating the Bicentennial Presidential Inauguration, I believe it to be both timely and appropriate that this volume be revised and updated.

Individually and collectively, these addresses are an important part of our Nation's heritage, chronicling the course of this country from its earliest days to the present.

A current and complete compilation of inaugural addresses is needed as a reference source of scholars, historians, public libraries, educational institutions, and all who have an interest in the Presidency.

Mr. STEVENS. Mr. President, today I am submitting, together with Senator FORD, a concurrent resolution to print the inaugural addresses of all our Presidents from George Washington to George Bush.

The inaugural addresses of the Presidents of the United States were first published in 1961. This publication included all the inaugural addresses up to and including President John F. Kennedy. In 1973, the Congress again authorized the printing of the Presidential inaugural addresses. The concurrent resolution Senator FORD and I are introducing would bring up to date that now out of print publication. This publication is especially fitting in light of the 200th anniversary of the Constitution and the ceremony we call our Presidential inauguration.

We are all familiar with the words of the inaugural oath of office, directed by the Constitution of the United States, "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." The continuity and familiarity of the words of the oath were never so dramatic as this year when President George Bush recited the oath of office using the same Bible used by President George Washington 200 years earlier.

Both President George Washington and President George Bush brought to the American public an inaugural message of national strength and protection and service to our country. The inaugural address, however, is unique to the individuality of each President in that we should publish all the Presidential inaugural messages in our document. Presidential inaugurals have served as symbols of our national strength and confidence. I hope my colleagues will join in supporting the reprinting and updating of "The Inaugural Addresses of the Presidents of the United States from George Washington 1789 to Richard Milhous Nixon 1973."

SENATE CONCURRENT RESOLUTION 20—RELATING TO THE CONDITION OF ETHNIC ALBANIANS IN YUGOSLAVIA

Mr. PRESSLER (for himself, Mr. HELMS, and Mr. DOLE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 20

Whereas it has been the traditional position of the United States to support the right of internal autonomy and human rights for all ethnic groups in Yugoslavia;

Whereas the Province of Kosovo is populated overwhelmingly by ethnic Albanians;

Whereas current events in Yugoslavia portend an end to the autonomous status of that province as guaranteed by the Yugoslav Constitution of 1974: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress

(1) is gravely concerned over the recent ominous developments in Yugoslavia and believes that all steps should be taken to prevent bloodshed in that country;

(2) requests the President of the United States to direct the Department of State to convey to the appropriate representatives of the Socialist Federal Republic of Yugoslavia the support of the United States for the continuing internal autonomy of the province of Kosovo as provided for in the Yugoslav Constitution of 1974.

Mr. PRESSLER. Mr. President, over the last 2 weeks a crisis has been unfolding that seems likely to deny basic human rights to a large and important ethnic group in Yugoslavia. It may well have even more tragic consequences. Therefore, together with my distinguished colleagues, Senator HELMS and Senator DOLE, I am introducing today a concurrent resolution expressing congressional concern over this situation.

Under the Yugoslav Constitution of 1974, the Province of Kosovo was granted autonomy within the Yugoslav Federal system. The province's population is comprised of a large Albanian majority, estimated to be 85 percent of the total population, and a smaller Serbian minority, estimated to be approximately 10 percent of the population, with the remaining 5 percent split among other ethnic groups. While the Province is technically a part of the larger Serbian Republic within the Yugoslav Federation, it was granted considerable autonomy in running its own affairs. This arrangement traditionally has been favored by the United States because it preserves the right of self-determination for the large Albanian minority in Yugoslavia.

Recently, however, this arrangement has come under attack. The current leadership of the Serbian Republic, under the direction of Slobodan Milosevic, is attempting to wrest control of the Province of Kosovo away from its

Albanian majority. In response to the forced resignation of the leadership of the Province, Albanians in Kosovo recently conducted a series of strikes, the most serious of which involved hunger strikes by over 1,000 miners. The response of the Yugoslav authorities to these peaceful actions has been horrendous. Tens of thousands of Federal troops have descended on Kosovo and begun making mass arrests. The Yugoslav Federal authorities, evidently intimidated by massive demonstrations in the Serbian city of Belgrade, seem ready to hand over effective control of the Province of Kosovo to a minority of 10 percent within that Province.

The resolution I am introducing today is identical to one being offered in the House of Representatives by members of the House Foreign Affairs Committee. Our resolution is very simple. It states our concern over the ominous developments in Yugoslavia, and it calls upon the President to direct the State Department to reaffirm to the Yugoslavs our support for the continued internal autonomy of the Province of Kosovo, as provided for in the Yugoslav Constitution of 1974. This resolution does not seek to take sides in the historical quarrel between Albanians and Serbians in Yugoslavia. It merely affirms that we in the United States will continue to support self-determination for all peoples everywhere in the world.

SENATE RESOLUTION 79—REFERRING THE BILL S. 559 TO THE COURT OF CLAIMS

Mr. SYMMS (for himself and Mr. McCLURE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 79

Resolved, That the bill S. 559 entitled "A bill for the relief of Shipco General Inc., an Idaho corporation", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on conservation tillage technology research; implications for a sustainable agriculture. The hearing will be held on March 15, 1989, at 8:30 a.m. in room 332, Russell Senate Office Building.

Senator CONRAD will preside. For further information please contact Suzy Dittrich of the subcommittee staff at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 9, 1989, at 9:30 a.m. to hold a hearing on budget economic assumptions and proposed spending cuts contained in the President's budget for fiscal year 1990.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. EXON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 9, 1989, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. EXON. 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 Thursday, March 9, 1989, at 10 a.m. to continue its oversight hearings on the problems of the Federal Savings and Loan Insurance Corporation.

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

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, March 9, 1989, at 2 p.m. to conduct a hearing on JTPA Youth Employment Amendments of 1989.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 9, 1989, at 9 a.m. to consider testimony by the Commodity Futures Trading Commission on exchange trading practices in the Commodity Futures Markets.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. EXON. 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 Thursday, March 9, 1989, at 9 a.m. to conduct a hearing on national and community service legislation.

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

SPECIAL COMMITTEE ON AGING

Mr. EXON. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Thursday, March 9, 1989, at 9 a.m. to hold a joint hearing with the Subcommittee on Long-Term Care and the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging to receive testimony on residential board and care facilities.

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

ADDITIONAL STATEMENTS

NEED FOR HABEAS CORPUS REFORM

● Mr. GRAHAM. Mr. President, on February 6, Chief Justice William Rehnquist spoke to the American Bar Association in Denver and addressed a critical issue facing the judicial system: the need for habeas corpus reform.

In his remarks, Judge Rehnquist described the current system of habeas corpus as chaotic and unnecessarily drawn out, often jeopardizing the Court's ability to serve justice in a timely fashion.

This is not the first time the Chief Justice has recognized the pressing need for habeas corpus reform. On August 31, 1988, he appointed a committee, chaired by retired Supreme Court Justice Lewis Powell, to review the habeas corpus system and make recommendations for improvement.

I have introduced legislation, the Habeas Corpus Reform Act of 1989, which is very similar to the remedy Justice Rehnquist suggests in his remarks. Mr. President, I ask that the excerpt of those remarks referring to habeas corpus reform be included in the RECORD at this time.

The excerpt follows:

EXCERPT FROM JUDGE REHNQUIST'S REMARKS

About a year ago in speaking to the Conference of State Chief Justices I expressed the view that there was need for reform in the method by which death sentences imposed by state courts are reviewed on federal habeas corpus. Since then I have appointed a committee of the Judicial Conference of the United States, chaired by another distinguished past president of the American Bar Association, Lewis F. Powell, Jr., retired Associate Justice of our Court, and including in its membership a circuit judge and district judge from each of the two circuits which have the most experience in this area. The American Bar Association has created a committee of its own to consider this question, which I believe is of great importance to the federal system. Again, we are

not talking about wholesale reshaping of the nature of this jurisdiction, but about modest changes which will impose some structure on a system which at present often proves to be chaotic and drawn out unnecessarily.

In the case of Ted Bundy, the so-called "serial killer" executed in Florida last month, the Supreme Court of the United States received three separate applications for a stay on the day before the date scheduled for execution. The first sought review of a refusal by the federal district court in Florida to grant a stay, and raised four separate federal issues. The second sought a stay of execution pending review of a denial by the Supreme Court of Florida for state post-conviction relief. The third sought a stay pending review of an original action brought in the Supreme Court of Florida on the same day. All three of these actions were being prosecuted in these courts simultaneously on the day before the execution of a prisoner who had been on death row for nine years. Surely it would be a bold person to say that this system could not be improved.

Any system of collateral review of criminal sentences is going to work differently depending on whether the sentence is for a term of years or is a capital sentence. Today a typical state prisoner challenging his conviction in federal court continues to serve his sentence while the federal inquiry proceeds. Thus, the mere pendency of federal proceedings does not ordinarily disturb the carrying out of the state sentence. Only if it is finally determined in the federal court system that the state conviction violated the United States Constitution is relief awarded to the habeas petitioner. Thus the prisoner has every incentive to push for a final resolution of his claim.

But in the context of capital sentencing, the system works quite differently. Unless the federal habeas petition is filed a long time before the death sentence is scheduled to be carried out, that sentence must be stayed in order to permit careful federal inquiry into any colorable claim of constitutional wrong. The capital defendant does not need to prevail on the merits in order to accomplish his purpose; he wins temporary victories by postponing a final adjudication. This is a necessary part of any system of federal review of state capital sentences, but it also gives the prisoner every incentive to invite delay.

It is highly desirable that the federal reviewing process be structured so as to enable it to give careful consideration to the constitutional claims of the capital defendant, but also to bring that consideration to a final conclusion within a reasonable period of time. Some of those who are apparently opposed to any sort of habeas corpus reform in this area cite the fact that a large number of state capital convictions have been set aside by federal courts on habeas review. But to my mind the flaw in the present system is not that capital sentences are set aside by federal courts, but that litigation ultimately resolved in favor of the state takes literally years and years and years. Willy Darden, whose capital sentence was ultimately found constitutional, was finally executed in 1988. He had been the subject of six separate death warrants and more than fourteen years of litigation, including review of his sentence by numerous state and federal courts. This case is atypical, but the time elapsed between the commission of the crime and the date of execution in capital murder cases averages eight years nationally, and more than thirteen years in some states.

The delays arise for a multitude of reasons. Some are delays within the state court system and in processing transcripts and the like, which are in no way the fault of federal habeas review. Other delays stem from the fact that the capital defendant may have no counsel at the time of filing his federal habeas petition. More delay results from uncertainty about the availability of successive federal habeas petitions and from the fact that there is no statute of limitations on the bringing of the federal action. Finally, some delay seems to be caused by the doctrine of exhaustion of state remedies, a doctrine adopted to require deference to the state courts, but which tends in some cases to unnecessarily delay federal habeas review of capital sentences.

I am sure that the committees studying this question will come up with useful suggestions as to how this problem may be solved. I think if we give the states an incentive to provide counsel for habeas petitioners, and require that all federal claims be consolidated in one petition and filed within a reasonable time after the conclusion of direct review, the system will be considerably improved.●

THE COMMENDABLE SACRIFICES OF DR. ORLANDO BOSCH

● Mr. MACK. Mr. President, the message of freedom is the message of hope. And while the cry for freedom from many cannot be ignored, the individual who sacrifices his life in pursuit of liberty must be heard. Such is the case with Dr. Orlando Bosch.

Dr. Bosch has been in the custody of authorities since February 1988 when he reentered the United States from Venezuela. He is being held in the Metropolitan Correctional Institute in Dade County while the Immigration and Naturalization Service reviews his immigration status.

A man who came to this country from Cuba in 1960, Dr. Bosch gave up his practice as a pediatrician to pursue the cause of freedom for his homeland.

In his zeal to fight communism, he committed an unlawful act in the 1960's which is no longer an issue because he has paid his legal debt.

At the very least, I am calling on the INS to release Dr. Bosch from jail while pending immigration questions are under review. It is my hope that the INS will find that Dr. Bosch can remain in the United States.

Dr. Bosch suffers from a number of medical ailments. This case calls for compassion on the part of the INS. Dr. Bosch deserves to spend his final years with his family in the United States.

Dr. Bosch has sacrificed his life for the same kinds of freedoms we enjoy. The INS should give him the opportunity to breathe the air of freedom in the remaining years of his life.

Judge William Hoeveler, who considered Dr. Bosch's case, said:

I would note in concluding this memorandum that the petitioner's (Bosch) physical condition and age would indicate the need for a compassionate consideration of some strict form of release as the exclusion proceedings move along. I would recommend such release.

I echo Judge Hoeveler's concern.

We should not allow the bureaucratic maze to be Dr. Bosch's final penalty. Dr. Bosch has sacrificed in the hope that the Cuban people can once again have their freedoms returned to them.

The freedoms we enjoy in America work in large part because of the compassion that guides our decisions. Dr. Bosch deserves the same kind of compassion from us that he has given to the cause of freedom.●

FRIENDLY SONS OF ST. PATRICK OF MERCER COUNTY

● Mr. LAUTENBERG. Mr. President, the Friendly Sons of St. Patrick of Mercer County will soon be getting together for their annual St. Patrick's Day dinner. On this day when everyone is Irish, I am pleased to rise as an honorary Irishman and honorary chairman of this dinner to pay tribute to the Friendly Sons of St. Patrick of Mercer County and to inform my colleagues of the good work they do.

Each year, Americans of all backgrounds join their friends and neighbors of Irish descent in St. Patrick's Day festivities throughout the country. This celebration is not merely the result of the luck of the Irish. It is a fitting testimony to the remarkable contributions made by the emigrants and descendants of Ireland to the shaping of this Nation. It is a tribute to the special place the Irish have carved for themselves in American society. Throughout decades of emigration and assimilation, Irish Americans have been leaders in the business, professional, and political worlds. The men and women gathered at this dinner continue this tradition as pillars of our communities, and no one more so than John J. O'Gorman, who is being honored as Irish American of the year.

The unique relationship between the United States and Ireland assures all Irish that they are among friends in this country. Likewise, wherever Americans go in Ireland, they find "ceed mile failte"—a hundred thousand welcomes. During a trip last year to the Republic of Ireland and Northern Ireland, I had the fortunate opportunity to experience that special Irish hospitality. I am pleased that the Honorable Ben Briscoe, the Lord Mayor of Dublin is with the Friendly Sons of St. Patrick of Mercer County for this year's dinner, where I know that Irish hospitality and cheer is being extended to him.

Mr. President, as we in this country celebrate St. Patrick's Day, it is appropriate to remember those less fortunate in Ireland, where unemployment hovers near 20 percent and remains

one of the major challenges facing the island. While the Friendly Sons of St. Patrick have prospered in this country, they have not forgotten their roots. In fact, they have committed themselves to providing assistance and guidance to their kin in need. The proceeds of these annual dinners primarily benefit the Irish American partnership, an organization founded by American business leaders which aims to stimulate investment, encourage enterprise and bring new jobs to Irish communities. Working with its Irish affiliate, the partnership seeks to expand the range of opportunities to Irish youth so that young Irish people will not think it necessary to look beyond their own country for their future.

Last year's dinner raised some $30,000. This money will be used to provide low-interest loans to Irish firms located in areas of high unemployment, to allow Irish university graduates to come to the United States to receive valuable hands-on work experience, and to support education and research programs in Ireland that develop and promote industry appropriate to Ireland's size and workforce. I believe that initiatives like these will go far in promoting a stronger Irish economy that can offer both incentives to investors and real hope to its young and talented people.

Mr. President, I wish to commend the Friendly Sons of St. Patrick of Mercer County for their good work, and wish them a successful and memorable St. Patrick's Day dinner for 1989.●

THE COMPENSATION FOR AMERICAN VICTIMS OF PLO TERRORISM ACT

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 183, the Compensation for American Victims of PLO Terrorism Act, introduced by my distinguished colleague, Senator HELMS. This legislation will facilitate the compensation of American victims of terrorist acts committed by the Palestine Liberation Organization or any of its factions.

Mr. President, the innocent American victims of the PLO's violent incidents, over the past several years, deserve sufficient compensation to help alleviate some of the anguish resulting from their terrifying experience.

The Palestine Liberation Organization, and its numerous factions, have been involved in numerous incidents involving American citizens. These victims have been murdered, wounded, raped, physically and mentally tortured, and held hostage. In the fight against terrorism, I feel that the PLO should pay for their long-established policy of bombing, kidnapping, hijacking, extorting money, and committing murders. This is only a small reparation for the grief they have caused throughout the world.

Over the last 15 years the PLO has killed over 30 Americans and wounded nearly 40. Our civilian travelers are all too common targets of terrorists. Efforts must be pursued to prevent and deter U.S. citizen exposure to this kind of arbitrary and senseless violence.

Mr. President, last year the PLO supposedly renounced terrorism. I can think of no better way for the PLO to demonstrate its sincerity than to compensate innocent American victims for their past terrorist acts. This legislation will be a positive first step for their new stand against terrorism. If the PLO fails to provide an appropriate compensation plan to the American victims, then all negotiations on recognition of the PLO should be terminated.

The point of the matter is, Mr. President, the PLO is a known terrorist organization. Mr. Arafat has advocated the destruction of Israel for decades. Only 17 days after the PLO renounced terrorism, the State Department had reports that Mr. Arafat had strayed from his commitment and threatened Elias Freij, the moderate Arab mayor of Bethlehem. Mr. Arafat, in fact, has been widely reported in Israel of threatening the death of any Palestinian who calls for the uprising to slow down or stop altogether. It may be that his wing of the PLO has not carried out any terrorist acts since the renunciation of violence. Yet, the other factions based in Syria and Lebanon have attempted several infiltrations on Israel in anger of Arafat's appeasing moves. In fact, these factions have stepped up their guerrilla activities since November.

The PLO must make specific promises and back them with concrete actions to gain credibility. Simple verbal assurances on their abandonment of terrorism are wholly inadequate to prove themselves trustworthy. They should begin their conciliatory efforts by compensating the U.S. victims of their heinous deeds to prove their sincerity in renouncing terrorism. This will provide the necessary force to continue an open dialogue with the PLO.●

PRISONERS OF CONSCIENCE

● Mr. HATFIELD. Mr. President, every day, each one of us does something that could get us sent to jail in at least half the countries around the world: We speak our mind. On issues big and small, we voice an opinion every day in 100 different ways. Indeed, we do it so often and so easily that I doubt that many of us ever stop to think about how precious our freedom really is.

Thousands of men and women in dozens of countries around the world know exactly how precious that freedom—the freedom to simply speak—is, Mr. President. These men and women, from all walks of life, from all cultural, religious, and economic backgrounds, are Prisoners of Conscience who had the courage to speak their minds in countries which did not want to hear what they had to say. The price they pay is jail, oftentimes torture, and sometimes even death.

For 28 years, Amnesty International has been adopting these Prisoners of Conscience, shining the spotlight of international attention into their dark cells and putting names and faces on the statistics. Over the years, their efforts literally have saved lives and have won the freedom of thousands of men and women.

Today, the organization is asking Congress and the administration to adopt some of these Prisoners of Conscience. Today, Amnesty International is asking each State delegation, the District of Columbia delegation, and the administration to come together—not as Democrats and Republicans, not as conservatives and liberals, but as men and women who cherish freedom—to work for the release of the individual Prisoners of Conscience to whom they are assigned.

I hope my colleagues will think the next time they voice an opinion—what would happen if our opinions landed us in jail? Would anybody care? Would those who had a free voice be willing to speak on our behalf?

I ask that a list of the Prisoners of Conscience assigned to the delegations and to the administration be printed in the RECORD.

The listing follows:

PRISONERS OF CONSCIENCE

ADMINISTRATION, COUNTRY, AND PRISONER OF CONSCIENCE

President Bush: China, Yulo Dawn Tsering.

President Bush: Israel, Zahl Jaradat.

STATE DELEGATION, COUNTRY, AND PRISONER OF CONSCIENCE

Alabama: Somalia, Sofia Hashi Madar.

Alaska: Morocco, El Hassan El Bou.

Arizona: Indonesia, Farid Majid.

Arkansas: Yugoslavia, Robert Rasaj.

California: Hungary, Zoltan Schmeller.

Colorado: Ethiopia, Abba-Biyya Abba-Jobir.

Connecticut: Syria, Naer al-'Ali.

Delaware: Peru, Agripino Quispe Hilario.

District of Columbia: Greece, Panayiotis Latis.

Florida: South Africa, Mthiwabo Michael Nudube.

Georgia: East Germany, Dr. Heinz-Peter Wetxig.

Hawaii: South Korea, Soh Sung.

Idaho: Singapore, Teo Soh Lung.

Illinois: Malawi, Orton And Vera Chirwa.

Indiana: South Africa, Mutile Henry Fazzie and Ethesia Fazzie.

Iowa: East Germany, Andreas Winkler.

Kansas: Peru, Porfirio Suni Ouispe.

Kentucky: Brunei, Sarponin bin Sarpo.

Louisiana: China, Bishop Casimir Wang Milu.

Maine: Syria, Muhammad Issa al-'Ali.

Maryland: Taiwan, Tsai Yu-chuan.
Massachusetts: Singapore, Kevin Desmond de Souza.
Michigan: Chile, Manuel Bustos Huerta.
Minnesota: Ethiopia, Wossen Seged Mekonnen.
Mississippi: USSR, Bohdan Klymchak.
Missouri: Yugoslavia, Hava Shala.
Montana: Yugoslavia, Adem Demaci.
Nebraska: Cuba, Fernando Villalon Moreira.
Nevada: South Africa, William Malotani.
New Hampshire: Israel, Taysir Aruri.
New Jersey: Bulgaria, Ismail Hyuseyinov.
New Mexico: Somalia, Abdulaziz Farah Mohamed.
New York: Czechoslavakia, Vaclav Havel.
North Carolina: Kenya, Charles Wainaina Chege.
North Dakota: Chile, Arturo Martinez Molina.
Ohio: Czechoslovakia, Ota Ververka.
Oklahoma: Chad, Hadja Merami.
Oregon: Indonesia, Abdul Ranih Yinsih.
Pennsylvania: Ghana, Akwasi Adu-Amankwah.
Rhode Island: Vietnam, Nguyen Thi Nghla.
South Carolina: Tanzania, James Mapalala.
South Dakota: Malaysia, Lim Kit Siang.
Tennessee: Syria, 'Adnam Miqdad.
Texas: Ethiopia, Martha Kumsa.
Utah: Somalia, Bileh Hersi Eed.
Vermont: Somalia, Awil Saeed Mohamound.
Virginia: USSR, Yuri Pastushok.
Washington: China, Wei Jingsheng.
West Virginia: Laos, Khamphan Pradith.
Wisconsin: Turkey, Mehmet Ozgen.
Wyoming: Benin, Paul Cocouvi Sossoukpe.●

THE COMMUNITY COLLEGE OF RHODE ISLAND: A CELEBRATION OF 25 YEARS OF EXCELLENCE

● Mr. PELL. Mr. President, I rise to pay tribute to the Community College of Rhode Island on the celebration of its 25th anniversary. The Community College of Rhode Island, better known in my home State as CCRI, has grown tremendously in every sense since its inception in 1964.

Rhode Island Junior College, as CCRI was originally known, was housed in an old factory building in Providence, RI, at its founding, and served a population of a little more than 300 students. Since that time far, far more than the name of the school has changed. Today CCRI serves nearly 15,000 students, and has moved from that very small building to two separate campuses with extension campuses located throughout the State.

Since its founding, CCRI has had the mission to serve all types of students. There is the traditional community college student whose focus is primarily general liberal arts and sciences, and who may be testing the waters before embarking on a 4-year college or university career. There is the older student who is either returning to school for training or retraining, or is a first time freshman who may have just received a GED. There is also the student seeking a technical education which will culminate in an associates degree after 2 years of study. Further, indicative of the school's commitment to serving the specific needs of persons of different ethnic backgrounds is the presence of the Southeast Asian Center on the school's Flanagan Campus.

CCRI is deeply committed to serving minority students who comprise more than 7.4 percent of the school's total enrollment. Of these 1,088 students, 471 are blacks, 212 are Asians, 325 are Hispanics, and 80 are American Indians. The mentor program, which teams a minority student with a faculty member or another student, is a significant part of the school's effort to ease the transition into a postsecondary education for minority students, and to provide them with valuable academic and personal assistance.

CCRI is a stellar example of the fine system of community colleges across the country, a system we honored last month by celebrating February as National Community College month. CCRI, like its sister schools, offers both access and opportunity to individuals who may not otherwise have the opportunity to pursue a postsecondary education. In these institutions, individuals from diverse backgrounds take a wide variety of classes, from vocational education and machine design, to nursing and traditional liberal arts. Extremely important is the fact that the cost of attending these institutions is very reasonable. The tuition at CCRI is $950.00 a year; and with Federal student aid programs poviding important help, needy students find this excellent education within their reach.

The successes of CCRI can be attributed in large part to the leadership of two fine men. Dr. William Flanagan, the college's first president, was literally the father of the community college system in Rhode Island. Without his foresight and strong leadership, we simply would not have the CCRI to which we pay tribute today. Dr. Ed Liston, CCRI's current president, must be credited for his foresight and strong leadership in bringing CCRI to its position of strength in Rhode Island and prominence among community colleges throughout America. We are very fortunate, indeed, to be the beneficiaries of the contributions of both men.

Mr. President, the record of CCRI over the past quarter of a century is an impressive one, indeed. It is also a record I am confident will be followed by strong accomplishments in the years ahead. As a Senator from Rhode Island, I am proud of the record compiled by this fine institution, but as chairman of the Senate's Education Subcommittee, I am even more impressed with the very significant contribution it has made to education in its brief, 25-year existence. I believe I speak for all Rhode Islanders when I salute CCRI, commend it for a job well done, and challenge it to both accelerate and expand its important mission.●

GLASNOST: STILL MORE HOPE THAN REALITY IN THE UKRAINE

● Mr. PELL. Mr. President, the world is watching the changes unfolding in the Soviet Union with great hope. President Gorbachev's policies of glasnost and perestroika offer the Soviet Union an opportunity to break with a past marked by political repression and economic stagnation. But the new era of openness has invigorated some regions more than others. While Moscow has tolerated a degree of spirited ferment in the Baltic Republics, it has done little to loosen the reins of central control over the Ukraine. Despite the many new faces that Gorbachev has brought into the Soviet party hierarchy, one of Brezhnev's closest allies remains firmly entrenched as party chief in the Ukraine.

Under Moscow's wary eye, however, glasnost has kindled hope for greater freedom in the Ukraine. The Ukrainian Writers' Union, once a mouthpiece for Marxist orthodoxy, has become a voice of opposition. Last year it called for the establishment of Ukrainian as the Republic's official language. And at a Writers' Union meeting last December, a prominent poet, Ivan Drach, openly criticized the Ukrainian Communist Party boss.

Such activities have been greeted with hostility by the Soviet authorities. After a series of mass rallies last spring in Lvov and Kiev calling for greater political, cultural, and economic autonomy, the authorities cracked down. Last July Moscow imposed new restrictions on public demonstrations. Since that time, it has been reported that the authorities have used harsh measures to break up public rallies.

The strong spirit of the Ukrainian people continues to burn brightly despite years of repression. It is the same spirit that moved the Ukrainian National Assembly to proclaim independence on January 22, 1918. Now, after years of suffocating central control, the new policies of perestroika and glasnost offer fresh hope of greater cultural, economic, and political freedom in the Ukraine. But we must measure the success of glasnost by the reality, not the rhetoric, of change. Mr. Gorbachev's calls for glasnost have stirred thoughts of greater local autonomy in the Ukraine.

The Ukrainian people have enriched the life of America in many ways. Ukrainian immigrants and descendants have made tremendous contribu-

tions throughout American society and Americans have embraced many Ukrainian traditions. These religious and cultural traditions, which have long been stifled in the Soviet Union, have flourished in the United States. The United States should do everything possible to encourage President Gorbachev to allow greater cultural, economic, and political freedom to blossom in the Ukraine.

I ask that a letter to me from Eugene Iwanciw and articles be printed in the RECORD.

The material follows:

UKRAINIAN NATIONAL ASSOCIATION, INC.,
Washington, DC, January 30, 1989.

Hon. CLAIBORNE PELL,
U.S. Senate, Washington, DC.

DEAR SENATOR PELL: In case you missed it, I am enclosing a copy of an article on Ukraine which appeared on January 22, 1989, in the *Washington Post.* In this outstanding article David Remnick writes about both the current situation in and the history of Ukraine under Soviet rule. He explains why Ukraine has received the harshest treatment of any republic during the over seventy year history of the USSR.

It is fitting that the article appeared on January 22, Ukrainian Independence Day. When Ukraine declared itself independent in 1918, it was immediately attacked by both the Bolshevik and Tsarist armies. As is pointed out in the article, which both Lenin and the Tsarist leaders understood, "the empire cannot survive without the Ukraine."

Mr. Remnick's article contributes to a better understanding of the nature of the Soviet Union and the aspirations of Ukrainians and other non-Russians in the USSR, which is critical to the formulation of a coherent and effective U.S. policy. That policy must include our historic support for freedom and self-determination for *all* people including Ukrainians, who have been denied independence for most of their history.

The article provides not only a better understanding of what is taking place in Ukraine but throughout the Soviet Union. I hope you will add this article to the reference file folder, Ukraine and Ukrainians, which we provided to your office three weeks ago.

If you have not yet had the opportunity, I again join with Ukrainian-Americans in Rhode Island in requesting that you make a statement on the floor of the Congress about Ukrainian Independence Day. The enclosed article may be helpful in preparing your remarks. Again, feel free to contact my office should you require any information about Ukraine or Ukrainian-Americans.

Sincerely,

EUGENE M. IWANCIW,
Director, Washington Office.

[From the Washington Post, Jan. 22, 1989]

UKRAINIAN NATIONALISM STIRRING ANEW IN SOVIET "COLONY"

(By David Remnick)

"For us to lose the Ukraine would be the same as losing our head."—Lenin, 1918

Lvov, U.S.S.R.—For the Soviet empire, the Ukraine is the fire next time. The republic may seem for now an obedient, dormant region of more than 50 million people, but it soon could pose a challenge to centralized Soviet power that would eclipse anything that has happened so far in the Baltic republics or the Transcaucasus.

Especially here in the western part of the republic—where the outlawed Ukrainian Catholic Church and cultural nationalism are strongest—a growing number of activists openly and angrily speak of themselves as a "colonized" people who intend, one day, to fight the "Soviet imperial idea." Resentment is slowly evolving into a movement.

"Right now we are not a strong movement; we don't have anything like the organization you see now in the Baltics," said Vyacheslav Chernovil, a nationalist and former political prisoner. "But a struggle is inevitable, and Moscow will invariably come down hard—much harder than they have in Estonia or Latvia."

Activists here, as well as Soviet and western sources interviewed in Moscow and Kiev, agree that the Kremlin will never show the Ukraine, a republic the size of France, even the limited tolerance it has extended to smaller, non-Slavic republics in the past year. It is a matter not only of history and politics, but of costs and benefits.

"Let's face it, the Soviet empire knows that in the end it can always survive without the Baltics or the Transcaucasus—it's only a few million people here and there, after all," said Stepan Khmara, a physician in Lvov.

"Moscow could even do without Eastern Europe, because it turns out that this is a very expensive military buffer zone. But Lenin knew it from the start: The empire cannot survive without the Ukraine. There are just too many people, too many resources here. It will inevitably be a fight. The question is: When?"

The Ukrainian challenge may not come soon, but the leadership in Moscow is still playing it safe and strict.

The Ukrainian party chief, Vladimir Shcherbitsky, is 70 years old and was one of the closest allies of the discredited Soviet leader Leonid Breznev. And yet President Mikhail Gorbachev has kept the man known here as "The Enforcer" in place.

"Shcherbitsky is Gorbachev's iron man in the Ukraine," said Bogdan Horyn, a leader of the unofficial human rights group here, the Helsinki Union. "He may not be Gorbachev's favorite in the Politburo, but I think he fears what would happen in the Ukraine without Shcherbitsky and the mafia around him."

Knowledgeable sources in Moscow said that while Shcherbitsky will probably not last more than another two or three years, his replacement is likely to follow a similar course. "It's inconceivable that an Estonian-style party leader would get the job," one diplomat here said. "For one thing, the Ukraine doesn't have anybody like that in the ranks."

The other night in Lvov, at a dim apartment decorated with a sparse Christmas tree, a group of Ukrainian nationalists, writers and human rights workers—most of them former political prisoners—spent hours describing a place and an atmosphere never reflected in the official press.

They talked of a republic in a "perpetually worsening" economic crisis, of a Ukraine "that is still the epicenter of stagnation." They spoke of a non-Russian culture "gutted" by decades of "imperial centralism" and "Russification." And none of the dozen men and women at the table put much faith in the slogans of reform spoken every day in Moscow or in Gorbachev himself—"a friendly-looking emperor, but an emperor, nonetheless."

And while they said they admired Ronald Reagan and his speeches during the Moscow summit, they could not understand how an American president could seemingly overlook "Moscow's domination of the periphery" and say that the Soviet Union is no longer an "Evil Empire."

"The way we see it, Gorbachev's reforms have nothing to do with internal democracy," Chernovil said. "They are a last bid—a bluff, in a way—to improve the Soviet Union's dynamics with other countries in order to get technology and aid from abroad and improve the economy."

Ivan Makar, who recently served a three-month jail sentence for nationalist activities, agreed. "Gorbachev absolutely fears real democracy," he said, "Look at the crackdown on demonstrations [that began last summer.] Look at the undemocratic road these 'elections' for the Supreme Soviet have taken. Look at how Gorbachev keeps an iron grip on the Ukraine. Even the old Stalinist constitution had more democratic phrases in it than Gorbachev's."

The movement for political and cultural autonomy in the Ukraine may not approach the scale of what happened last year in Estonia, Latvia and Lithuania, but it adds up to a great deal more than a group of people sitting around a table talking. Battles, in some places, have already begun:

Despite the lurking presence of a particularly strong KGB force in the republic, activists staged a number of mass rallies in Lvov and Kiev that have drawn between 5,000 and 50,000 demonstrators protesting political repression, "Russification" and various ecological disasters. At a June 21 rally in Lvov, 50,000 gathered in the Friendship Soccer Stadium to call for creation of an Estonian-style "Popular Front" that would press Moscow for greater economic, political and cultural autonomy.

Since Moscow decreed new restrictions on public demonstrations last July, the KGB and police have denied permission for such meetings and have used dogs and truncheons to break them up as "unsanctioned gatherings." The repression of demonstrations has been especially harsh in the Ukraine and in the neighboring republic of Byelorussia, where party officials have tried to break up the Popular Front and other democratic groups.

The Ukrainian Writers' Union, once a lap dog for Shcherbitsky and ideological orthodoxy, has become a force of opposition, supporting the nascent Popular Front and pushing for the establishment of Ukrainian as the republic's office language.

A well-known dissident literary critic, Ivan Dzyuba, was able to publish an article in the central ideological journal of the Communist Party, Kommunist, that criticizes the dominance of the Russian language and culture in the Ukraine. "We and our Byelorussian brothers are perhaps the only peoples of Europe deprived of higher education instruction in our native languages," he wrote in an article published this month in the newspaper Moscow News.

At a Writers' Union session last month, a prominent poet, Ivan Drach, spoke out openly against Shcherbitsky, the first such defiance of the Kiev leadership at an official meeting.

Although nationalists like Horyn and Chernovil have been working for Ukrainian rights for decades, many activist groups led by younger party members and independents alike have appeared in recent months.

The Lion Society, headed by a 25-year-old Young Communist League official, Orest Sheyka, has battled local authorities for the preservation of long-neglected Ukrainian

monuments and natural resources, such as the Dnestr River. "The river is practically dead," Sheyka said in an interview.

Environmental groups, such as Green World and Noosfera, form a growing "Green's movement modeled on those of Western Europe and the Baltic. At a demonstration in Kiev in November, 8,000 people gathered to attack Shcherbitsky and call on the government to shut down nuclear reactors throughout the republic.

A performance group called Don't Worry has staged many evenings of political cabaret reminiscent of neighboring Poland. And several cultural clubs, such as the Culturological Group in Lvov, are pressing the language issue and are encouraging more schools and universities to emphasize Ukrainian history.

History, long and tragic, is everywhere here. Russian czars and general secretaries have dominated the region for three centuries. And nowhere in the Soviet Union does the legacy of Joseph Stalin's repression and Leonid Brezhnev's corruption persist more painfully than in the Ukraine.

Only now are historians here allowed to publish reports about the "great collectivization" of the countryside in the early 1930s, during which millions of Ukrainian farmers were forcibly herded off their lands, sent to labor camps and starved to death during an artifically created famine.

Only now are journalists here beginning to write about how Stalin crushed the Ukrainian Catholic Church in 1946, killing thousands of priests and believers and forcing millions to choose between atheism and the "officially sanctioned" and government controlled Russian Orthodox Church.

But even now it is impossible here to write about the way Brezhnev and Shcherbitsky purged the intelligentsia in the 1970s and stacked every level of the Ukrainian party organization with compliant apparatchiks—a situation that lingers today.

"We look at a place like Estonia with astonishment," said Bogdan Horyn's brother, Mikhail. "We see there Communist Party officials who actually are working in the interests of the people, and then we look at the Ukrainian party and we despair. The party holds nothing for us. It never has."

There have been nationalist, dissident movements here since the early 1960s. More than 24 years ago. Ivan Dzyuba wrote an essay on Moscow's nationalities policy. "Internationalism or Russification?", in which he called for the sort of autonomy that is at the center of the present day Estonian platform.

Those dissidents even received some limited support from Petro Shelest, the former Ukrainian party chief, who wrote a book supporting the preservation of Ukrainian language and culture. But when Brezhnev purged Shelest in 1972, he replaced him with Shcherbitsky and an even harder line.

Shcherbitsky, for his part, continues to infuriate activities here. He has made no significant concessions on the language issue, insisting on giving his own speeches in Russian. In one speech last month he railed against the use of *glasnost*, as Gorbachev's policy of openness is called, for "anti-Soviet ideas" and "national egotism."

Vitali Korotich, editor of the liberal Moscow weekly magazine Ogonyok and once a rather conservative figure in the Ukrainian Writers' Union, said, "What you are seeing for the moment, is a standoff in the Ukraine. The leadership is tough, and independent groups are growing. My big concern is that nationalism doesn't become provincialism."

Two events have set off the renewed activism here: Chernobyl and the political upheaval in the Baltics.

As Ukrainians have learned more about the nuclear accident outside Kiev almost three years ago, they have come to distrust the authorities more than ever. Yuri Shcherbak's remarkable two-part series on Chernobyl, published recently in the journal Youth, revealed, for many, a series of startling, often humiliating details about the disaster. "We even learned that while the leadership refused for days to tell us a word of what had happened, the children of all the Ukrainian party leadership were immediately evacuated," said historian Igor Khomin.

When Estonian intellectuals began to broaden their movement for autonomy from Moscow last year, eventually winning the support of the republic's Communist Party leadership, Ukrainians listened.

"We sent three people to Estonia to see the Popular Front congress and it seemed like a miracle," said Pyotor Kagui, a member of the organizing group for a popular front in Lvov. "We knew we needed the same thing here."

But in spite of the mass demonstrations in the spring and summer supporting the creation of a democratic Popular Front and the obvious groundswell for change in the Ukraine, the authorities have tightened control to stamp out the spread of support for nationalism or participation in the underground Ukrainian Catholic Church.

At a number of factories, for example, directors have called in foremen and workers for meetings with the following sort of dialogue.

"Do you wnat a vacation this year?"

"Yes."

"Would you like a raise?"

"Yes."

"Do you need to take Christmas off?"

"Uh . . . no."

At the Progress shoe factory, activists here said, workers were "asked" to sign petitions disvowing participation in nationalist groups. "They know that if they don't go along, there will be trouble," Bogdan Horyn said.

The sense of psychic and political distance from the Baltics is immediately apparent. While in the Baltics, conversations, even with party leaders, are extraordinarily open and fearless, meetings here between nationalists and visiting foreigners are only comfortable on park benches and remote side-streets. "The old days are still the new days in the Ukraine." Chernovil said.

Victor Morozov, a popular singer and director of the Don't Worry cabaret group, said that while life is slowly changing even in Lvov and there is less fear about performing his political songs on stage. "The sense of how far to go is always within us."

[From the Washington Post, Jan. 22, 1989]

STALIN "WANTED US TO BECOME RUSSIANS AND TO WORSHIP A RUSSIAN GOD"

(By David Remnick)

Lvov, U.S.S.R.—Ivan Hel has been waiting to pray without fear since 1946, the year Joseph Stalin dictated that the Ukrainian Catholic Church must "liquidate itself." An activist for his underground faith, the chairman of the church's defense committee for believers, Hel has spent 18 of his 52 years locked away in Soviet jails and labor camps.

"Until the church becomes legal, I will pray right here with priests and friends. Right here at this table; this is our altar," he said at his apartment recently. "They thought they could order us to disappear, but they were wrong."

Hel and western church sources estimate that there are 4 million Catholic believers in the western Ukraine, as well as 2.5 million Ukrainian Catholics in the United States, 700,000 in Canada and many thousands more in Brazil, Australia, Poland and elsewhere. "Our center is Lvov, but we are like the Jews—a people in diaspora." Hel said.

The authorities, since the rise of Mikhail Gorbachev to power in March 1985, have eased some of the pressure on Catholics here, often overlooking large outdoor masses in villages. But hard-liners still fear the legalization of the church, since it is so tied to the question of Ukrainians' self-awareness and differentiation from Russians.

The history of the church's suppression here has been brutal. In an effort to centralize every aspect of Soviet life, Stalin outlawed Byzantine-rite Ukrainian Catholics, ordering them to "unite" under the umbrella of the Russian Orthodox Church. He severed the Ukrainian church's 350-year-old tie with the Vatican.

More than 2,500 priests were arrested. They either died in labor camps or returned home as invalids. Churches were destroyed or turned over to the Russian Orthodox Church, which has long been tightly controlled by the state.

"Stalin tried to kill our historical memory, our traditions, our faith and our spiritual culture," Hel said. "He wanted us to become Russians and worship a Russian God or no God at all."

Somehow, despite all the repressions over 43 years, the Ukrainian Catholic Church has persisted. Priests train for three years in underground seminar classes that move from apartment to apartment to avoid the local KGB. Masses are held in kitchens, basements, wheat fields.

Meanwhile, the Ukrainian Catholic cardinal at the Vatican and Ukrainian Catholics in the West have long pressed for the legalization of the church in the western Ukraine.

This decade has been one of hope for Ukrainian Catholics: The rise of the Solidarity movement in neighboring Poland and the election of a Slavic pope, John Paul II, have focused attention on the issue. The pope did not attend last year's Kremlin-sponsored celebration of the millennium of Christianity in the region, reportedly because he did not want to offend the large Catholic populations in Lithuania and the Ukraine.

Shortly before the millennium, two underground bishops and a group of nuns, priests and laymen sent a message to the pope, saying, "We consider it useless to remain underground and therefore ask Your Holiness to promote by all possible means the legalization of the Ukrainian Catholic Church in the U.S.S.R."

In a subsequent message to "Ukrainian Catholics on Their Millennium," the pope said in Canada that he spoke "as a brother Slav, sharing to a large degree your spirit and heritage."

Last summer, representatives from the Russian Orthodox Church and the Vatican met in Helsinki to discuss the matter, but very little appears to have come out of the session. Activists here said they are hoping that Gorbachev will make a trip to Rome as early as this spring—a trip that might lead to a meeting with the pope and deal with legal recognition of the Ukrainian Catholic Church.

In a republic where the Soviet hard line has been the custom, it was a sign of hope for the believers several months ago when they came across an astonishing article in the atheist journal Man and the World by Vladimir Tencher of Kiev State University's Department of History and Theory of Atheism.

As seen by much of our youth," he wrote, "atheism has simply become old-fashioned. It is the view of grandfathers and grandmothers."

Gorbachev has promised a new, more liberal law on religious practices in the Soviet Union, but Hel and other activists are waiting to see if that law will embrace their own cause.

"I don't think Gorbachev in his heart wants to do it," He said. "He is the product of an imperial, totalitarian system, and his reforms will only strengthen his power and the power of the system. My optimism comes from elsewhere—from the faith of our people and the pressure and moral support of the world outside."

SALUTE TO THE MINNEAPOLIS SOCIETY FOR THE BLIND

● Mr. DURENBERGER. Mr. President, 75 years ago on March 14, 1914, a handful of Minnesotans concerned about the visually impaired citizens of Minneapolis formed the Minneapolis Society for the Blind [MSB]. Today, this society bears a national reputation as a nonprofit organization dedicated to helping blind and visually impaired people open new avenues of independence and opportunity.

The Minneapolis Society for the Blind offers a wide variety of services and opportunities for their students, clients, and shop workers. Individuals who have been recently blinded come to MSB for training in braille, orientation and mobility, vocational opportunities, adaptive techniques for daily living, and information about better health care. MSB also offers services and counseling to help individuals adjust to the emotional impact of vision impairment.

One of the greatest challenges for blind people today is employment—not because they lack ability, but because employers need increased awareness of the capabilities of visually impaired individuals. MSB provides vocational guidance and training, employs people who are blind and visually impaired, and helps employers develop a better understanding of their abilities.

For the 90 percent of the legally blind population who retain some of their vision, MSB offers "low vision" services which help individuals make better use of optical aids and equipment. MSB also actively seeks out the isolated, elderly population who is experiencing vision problems and do not know that help is available. Many of MSB's volunteers are visually impaired themselves, and its efforts are supported in a large part by their commitment, dedication, and talent.

In addition to working directly with the blind community, MSB educates the public about many issues related to blindness: how to prevent blindness, what to do if one experiences vision loss, and common misunderstandings about blindness. These and other efforts have increased public awareness and sensitivity for the blind community.

MSB is dedicated to continued partnerships in Minneapolis and surrounding communities. For 75 years, this agency has received support and encouragement from various individuals, organizations, corporations, and small business throughout the Minneapolis area. MSB also offers avenues to improve self-reliance for its clients, better enabling them to contribute to the social and economic well-being of their communities.

Through all of these services, MSB addresses the needs of the whole person in order to support the goals and aspirations of Minnesota's blind community. I salute the Minneapolis Society for the Blind on their 75th anniversary, and join in their celebration as they continue to contribute to the higher quality of life which makes Minnesota such a great place to live.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-687. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation of statute involving an overobligation of an approved appropriation; to the Committee on Appropriations.

EC-688. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation of statute involving an overobligation of an approved appropriation; to the Committee on Appropriations.

EC-689. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-690. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Clean Coal Technology Demonstration Program for 1988; to the Committee on Energy and Natural Resources.

EC-691. A communication from the Chief of Forest Service of the Department of Agriculture, transmitting, pursuant to law, the Tuolumne Wild and Scenic River management plan; to the Committee on Energy and Natural Resources.

EC-692. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties, entered into by the United States in the 60-day period prior to March 2, 1989; to the Committee on Foreign Relations.

EC-693. A communication from the Director of Communications and Legislative Affairs of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Equal Employment Opportunity Commission under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-694. A communication from the Federal Deposit Insurance Corporation, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-695. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of Public Service Commission's Agency Fund"; to the Committee on Governmental Affairs.

EC-696. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the third annual report on the fiscal year 1988 Competition Advocacy Program; to the Committee on Governmental Affairs.

EC-697. A communication from the Chairperson of the Retirement Trust of the Department of the Navy, transmitting, pursuant to law, the annual pension report; to the Committee on Governmental Affairs.

EC-698. A communication from the Acting Chairman of the International Trade Commission, transmitting, pursuant to law, the annual report of the International Trade Commission under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-699. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Reserve Board under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-700. A communication from the Assistant Secretary for Management and Budget of the Department of Health and Human Services, transmitting, pursuant to law, the fourth annual report on competition advocacy; to the Committee on Governmental Affairs.

EC-701. A communication from the General Counsel of the Executive Office of the President (Office of Administration), transmitting, pursuant to law, the annual report of Office of Administration under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-702. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-703. A communication from the Postmaster General of the United States, transmitting, pursuant to law, the annual report of the Postal Service under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-704. A communication from the Freedom of Information Act Officer of the Federal Home Loan Mortgage Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-705. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, the annual report of the Department of Energy under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-706. A communication from the Freedom of Information Act/Privacy Officer of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-707. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Reserve System under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-708. A communication from the Assistant Secretary of Commerce (Administration), transmitting, pursuant to law, the annual report of the Department of Commerce under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-709. A communication from the Marshal of the Supreme Court of the United States, transmitting, pursuant to law, the annual report on the cost of the protective function provided by the Supreme Court Police to Justices, official guests and employees of the Supreme Court for the period February 16, 1988 to February 15, 1989; to the Committee on the Judiciary.

EC-710. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-711. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-712. A communication from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, the annual report of the System under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-713. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the annual report of the Endowment under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-714. A communication from the Acting Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-715. A communication from the Archivist of the United States transmitting, pursuant to law, the annual report of the National Archives under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-716. A communication from the Director of Communications and Legislative Affairs of the Equal Employment Opportunity Commission transmitting, pursuant to law, the annual report of the Equal Employment Opportunity Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-717. A communication from the Chairman of the Federal Energy Regulatory Commission transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-718. A communication from the Acting Vice President and General Counsel of the Overseas Private Investment Corporation transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-719. A communication from the Acting Administrator of the Veterans' Administration transmitting, pursuant to law, a draft of legislation to provide automatic increases in the rates of disability compensation to veterans and others; to the Committee on Veterans' Affairs.

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that committees be permitted to file legislative and executive reports on Monday, March 13, from 12 noon to 3 p.m.

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

MEASURE PLACED ON THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 678, a bill to make a correction in the Education and Training for a Competitive America Act of 1988, just received from the House of Representatives, be immediately placed on the calendar.

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

PURCHASE OF DAIRY PRODUCTS BY THE COMMODITY CREDIT CORPORATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 553, a bill introduced earlier today by Senator LEAHY relating to the Commodity Credit Corporation's purchase of dairy products.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 553) to provide for more balance in the stocks of dairy products purchased by the Commodity Credit Corporation.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time by title and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am introducing today, for the Senate's consideration, a budget cutting bill that will work toward improving the long-term health of this Nation's dairy industry.

This bill mandates the Secretary of Agriculture make adjustments in the purchase price of butter and nonfat dry milk as part of the upcoming dairy price support changes.

The changes in dairy price supports were passed last year as part of the Disaster Assistance Act of 1988.

Mr. President, this bill will not change the support price of milk that we passed last year.

The support price of milk will still increase by 50 cents on April 1 and will fall by 50 cents on July 1.

What this bill does is to direct the Secretary to support the price of milk through butter and nonfat dry milk powder purchases differently than would otherwise be the case.

The bill directs the Secretary of Agriculture to make at least 75 percent of the upward adjustment on milk prices through higher nonfat dry milk prices.

When prices are reduced in July, at least 75 percent of the reduction must be made in butter prices.

Effectively this bill will shift the relative price difference between butter and powder, while still supporting the price of milk at legislated levels.

The bill does restrict some of the Secretary's discretion, but it still gives him a substantial amount of room to maneuver.

I am pleased that these adjustments will result in savings to the Federal Government in the current fiscal year of $10 million. Further, it will save $25 million in fiscal year 1990 as well.

It is my expectation, Mr. President, that these savings will be part of the dairy industry's contribution in any reconciliation package the Congress may devise later this year.

Just so that my colleagues, and the dairy industry understand, the dairy program may be subject to further cuts as the budget negotiations proceed.

I also want it understood that these actions will not penalize other commodities.

This action sends a signal to the dairy industry, a signal that they are well aware of.

The consumer is demanding lower fat dairy products.

Currently, the Commodity Credit Corporation's purchases of butter alone, if current trends hold, could be enough to trigger the next support price cut.

I am encouraged that the dairy industry is beginning to come to grips with this problem.

I look forward to a report from a special task force established by the National Milk Producers Federation to examine pricing formula options and other policy proposals to address the issue of fat in dairy products.

We need to pass this bill quickly so that the House will be able to take action before they recess at the end of next week.

Because the support price will increase on April 1, the Secretary must

announce any changes in butter and powder purchases prices by April 1.

This bill, has the bipartisan support of the Senate Committee on Agriculture and I urge its immediate passage.

Mr. BOSCHWITZ. Mr. President, I was pleased to have joined in sponsoring a bill designed to improve the long-term profitability of the dairy industry, as well as making a contribution to reducing the budget deficit. The bill would mandate that the Secretary of Agriculture make certain adjustments in the purchase price of butter and nonfat dry milk as part of the price support changes taking place on April 1 as a result of the Disaster Assistance Act of 1988.

Mr. President, I want to make clear that this bill will not change the support price that was a part of last year's drought package. The effect of this bill is to direct the Secretary to treat the purchases of butter and nonfat dry milk in a slightly different manner. The Secretary is to make at least 75 percent of the upward adjustment on milk supports through increasing the nonfat dry milk prices. At the time reduction occurs, 75 percent of the downward adjustment will be made in butter prices.

These adjustments will contribute $10 million in savings to the Federal Government in each of the next 2 years, and the savings should be part of the dairy industry's contribution to the reconciliation bill which we will be acting on later.

While it is by no means unanimous, there is considerable support for this measure in the dairy industry. It tells us that the industry is becoming increasingly aware that the consumer is seeking lower fat dairy products. CCC purchases of butter alone, if they were to continue at the present rate, would trigger the next support price cut. This situation clearly points out the conflict between consumer preferences and the current support mechanism. This bill would address that conflict.

The support price is to take place on April 1, Mr. President, so action needs to be taken quickly. Members of the Senate Committee have given bipartisan support to this bill. I urge its immediate passage.

Mr. LUGAR. Mr. President, today I am cosponsoring legislation authored by Senator LEAHY designed to correct imbalances in the dairy sector.

We are taking the unusual step of introducing the bill, and asking for unanimous-consent approval on the same day. This expedited procedure is thought necessary because of events that will take place under law on April 1 of this year. In order for the other body to act under their suspension of the rules procedure prior to the Easter recess, the Senate must act today.

As the Senate may recall, under the provisions of the 1988 drought relief package, the milk price support will increase $0.50 on April 1 and fall $0.50 on June 1. This period is known as the flush period and is typically the peak production as well as CCC purchase period.

Under our legislation, the Secretary of Agriculture must apply 75 percent—$0.38—of the milk price increase to the milk powder support price on April 1. The legislation also requires the Secretary to apply at least 75 percent of the $0.50 milk price support reduction to the butter support price on June 1.

The impact of an increase in the milk powder price support is minimal because powder prices are well above current support prices. Conversely, butter prices are well below support levels and the impact of reducing the butter support price will be lower butter prices. The net effect will be that less butter is purchased by CCC and budget savings will occur. This small change applies a bit of market economics to the dairy industry since butter remains in vast surplus while nonfat dry milk is more in balance with demand.

The Congressional Budget Office [CBO] estimates that the bill will save $10 million in fiscal year 1989, $25 million in fiscal year 1990, $10 million in fiscal year 1991, and $8 million in fiscal year 1992. Total savings over the 4 fiscal years total $53 million.

The Agriculture Committee is interested in achieving these savings for deficit reduction purposes. If the legislation is not approved before April 1, the committee will have lost this unique opportunity.

The Agriculture Committee expects that anticipated CCC savings will be credited to the Senate Agriculture Committee for purposes of future budget reconciliation or other budget reduction requirements. Further, we do not intend savings achieved by this legislation to have any adverse impact on other commodities in the context of future budget control and deficit reduction efforts.

It should also be noted, Mr. President, that contrary to predictions made by the dairy industry during consideration of the Disaster Emergency Act of 1988, milk production is increasing as are CCC purchases and Government expenditures.

Approval of this legislation will not reform dairy policy, but it will help reduce some of the most severe surpluses. Indeed, future dairy policy debate should continue to focus on cost and CCC surpluses. In addition, the record must reflect that this legislation is not intended to excuse the dairy industry from doing its share with respect to future deficit reduction efforts for fiscal year 1990 and beyond.

Mr. President, I urge approval of the bill.

Mr. JEFFORDS. Mr. President, I rise in support of this legislation to require the Secretary of Agriculture to adjust butter and powder purchase prices under the Dairy Price Support Program. This provision will reduce the cost of the program by $50 million over the next 4 years, according to CBO.

Under the price support program, the price of milk is supported through purchases of butter, cheese, and nonfat dry milk. Adjustments in the price support level are effected by adjusting the price paid by the Commodity Credit Corporation for these hard dairy products.

Consumers are on a health kick, and they are consuming less butter and high fat products. At the same time, genetic improvements in our Nation's dairy herd have steadily increased the butterfat content of our milk supply.

As a result, butter purchases by the CCC are growing. In fact, some estimate that 80 to 90 percent of the Government purchases—on a butterfat basis—this year will be in butter. This legislation will send the right market signal to the dairy industry by reducing the purchase price on butter.

At the same time, we are facing a worldwide shortage of nonfat dry milk. The world price of nonfat dry milk is well above the U.S. Government support price, so no nonfat dry milk is being offered to the CCC. This legislation will raise the purchase price for nonfat dry milk, again sending the right market signal to the industry.

It is important to note that this legislation will not change the support price increase that was approved by Congress in the Drought Assistance Act of 1988. The support price will rise to $11.10 on April 1 and then drop back down to $10.60 on June 30. This temporary price increase will help dairy farmers meet higher feed costs through the spring flush, when milk prices traditionally fall to their lowest level.

Mr. President, I urge all Senators to support this legislation.

Mr. HARKIN. Mr. President, I am cosponsoring this bill because it has two features that are too seldom combined in one piece of legislation: It will save the Government money and it represents good policy for the industry involved.

To help our dairy producers cope with the effects of last year's drought, the Disaster Assistance Act of 1988 provided for a temporary increase in the milk price support of 50 cents per hundredweight for the period beginning April 1, 1989 and ending June 30, 1989.

Under this bill at least 75 percent of that price support increase shall be reflected in the Government's purchase price for nonfat dry milk and no more than 25 percent of the price support increase shall be reflected in the Gov-

ernment's purchase price for butter. When the milk support price is decreased at the end of the 3-month period, no more than 25 percent of the decrease shall be reflected in the Government's purchase price for nonfat dry milk and at least 75 percent of the decrease shall be reflected in the Government's purchase price for butter.

Under the bill, the price relationship between nonfat dry milk and butter will change. With a lower Government purchase price for butter, more butter will be sold through normal market channels rather than being acquired by the Government. This is the reason for the savings under the bill. The Congressional Budget Office estimates that the reduced butter purchases by the Commodity Credit Corporation will result in savings of $10 million for fiscal years 1989 and 1990. Despite these savings, the bill does not lower the support price for milk.

The data clearly show that the Government has been buying far more butter than it knows what to do with. On December 31, 1987, the Commodity Credit Corporation was holding about 64 million pounds of butter in uncommitted inventory. By December 31, 1988, that figure had climbed to over 140 million pounds. During that same period, however, the CCC inventory of nonfat dry milk dropped from over 53 million pounds to a little over 2 million pounds.

While the CCC butter inventories were climbing, the balance in CCC purchases made a huge shift toward butter and away from nonfat dry milk. In the first quarter of fiscal year 1987 CCC purchased 52 million pounds of butter and 97 million pounds of nonfat dry milk. In the first quarter of fiscal year 1988, however, CCC purchased 44 million pounds of butter, but no nonfat dry milk.

Purchases of butter have remained so high that if the present trend continues butter purchases could lead to a reduction in the milk price support level on January 1, 1990. This bill will reduce these high levels of CCC butter purchases.

The bill is also important because it sends a signal to our dairy industry that the milk price support system will provide less of a reward for butterfat. With changes in dietary patterns, market signals would indicate decreased demand for milk with high butterfat content. Of course, our milk producers cannot change what their cows produce overnight. This is a good bill because it involves a modest shift to bring the Government's milk price support policy closer to these market signals, thus encouraging the production of milk with lower butterfat.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 553) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 553

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

SECTION 1. PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.

(a) MODIFICATION OF PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in carrying out the temporary $0.50 per hundred-weight increase in the rate of price support for milk provided for in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note), shall provide that at least 75 percent of such price support increase shall be reflected in the purchase price for non-fat dry milk and that not more than 25 percent of such price support increase shall be reflected in the purchase price for butter.

(b) DECREASE IN PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in implementing the $0.50 per hundredweight decrease in the rate of price support for milk scheduled to occur on July 1, 1989, (as provided in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note)), shall provide that not more than 25 percent of such price support decrease shall be reflected in the purchase price for non-fat dry milk and that at least 75 percent of such price support decrease shall be reflected in the purchase price for butter.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE TOWER VOTE

Mr. DOLE. Mr. President, earlier this evening I talked to the President. I know the distinguished majority leader called the President along with the chairman. I appreciate that and he appreciated that very much.

The President, you know, said he wanted to win, obviously. He thought he had a good man. We did not have enough votes. He accepts that.

We have a lot of work to do in the next several months. There may be a few temporary scars around for a while but I think he is right. I think we have to get on with it. We have a lot of work to do.

Maybe we will start, I guess when we are back after the recess, with the minimum wage and from then on I assume it is going to be pretty much full speed ahead, a full schedule.

I thank the majority leader.

Mr. MITCHELL. I thank my friend, the distinguished Republican leader. I did call the President shortly after the vote. Senator NUNN was with me. And I expressed to the President my hope that he and I had both previously stated, that we can work together to deal with the serious problems the country faces in a positive and cooperative spirit. The President was his usual gracious self; expressed appreciation for the call. I look forward to seeing him soon and continuing our discussions with him on a wide range of issues.

I also again thank my friend and colleague, the distinguished Republican leader. This was a new experience for me. It was not one I sought. It was difficult for all concerned and I am very grateful to the distinguished Republican leader for the courtesy, thoughtfulness, and graciousness which he has accorded me during this very difficult period for all concerned.

ORDERS FOR MONDAY

RECESS UNTIL MONDAY, MARCH 13, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon, Monday, March 13; and that on Monday the Senate be in pro forma session only with no business conducted.

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

RECESS ON MONDAY UNTIL 10 A.M., WEDNESDAY, MARCH 15

Mr. MITCHELL. Mr. President, I further ask unanimous consent that on Monday, March 13, at the close of the pro forma session, the Senate stand in recess until 10 a.m. on Wednesday, March 15.

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

ORDERS FOR WEDNESDAY

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Wednesday, after the time for the two leaders, there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my hope that at 11 a.m. on Wednesday, March 15, we will be able to take up S. 20, the whistleblower protection bill under a short-time agreement.

ORDER FOR RECESS FROM 12:15 P.M. TO 2 P.M.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that on Wednesday, March 15, the Senate stand in recess from 12:15 p.m. to 2 p.m. in order to accommodate the party conference luncheons.

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

RECESS UNTIL MONDAY, MARCH 13, 1989

Mr. MITCHELL. Mr. President, if the Republican leader has no further business and if no other Senator is seeking recognition, then, Mr. President, I move that the Senate stand in recess until 12 noon on Monday as under the previous order.

The motion was agreed to and, at 6:16 p.m., the Senate recessed until Monday, March 13, 1989, at noon.

NOMINATIONS

Executive nominations received by the Senate March 9, 1989:

DEPARTMENT OF STATE

HENRY E. CATTO, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

VERNON A. WALTERS, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be assistant surgeon

KENNETH L. BROOKS
VERNON A. MAAS
DAVID NG
TAN T. NGUYEN
ANDREW L. OLNES

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR ELMER D. BALLARD, XXX-XX-XXXX 12/3/88
MAJOR HIGINIO S. CHAVEZ, XXX-XX-XXXX 11/6/88
MAJOR WALTER D. DENSON, II, XXX-XX-XXXX 12/3/88
MAJOR MICHAEL J. GARCIA, XXX-XX-XXXX 12/7/88
MAJOR MICHAEL J. HAUGEN, XXX-XX-XXXX 11/23/88
MAJOR JAMES G. HUTTO, XXX-XX-XXXX 12/9/88
MAJOR DONALD L. KENNEDY, XXX-XX-XXXX 11/5/88
MAJOR RICHARD E. KRAEMER, XXX-XX-XXXX 12/3/88
MAJOR MICHAEL J. MELICH, XXX-XX-XXXX, 11/4/88
MAJOR JOSEPH E. MYERS, XXX-XX-XXXX 11/21/88
MAJOR TERRY L. O'CONNOR, XXX-XX-XXXX 12/3/88
MAJOR LEE N. PERRY, XXX-XX-XXXX 11/30/88
MAJOR ROBERT I. PLANT, XXX-XX-XXXX 8/5/88
MAJOR EDWARD M. POLACHEK, XXX-XX-XXXX 12/3/88
MAJOR JOHN A. PRIDDLE, XXX-XX-XXXX 12/17/88
MAJOR CHARLES D. SCOGGIN, XXX-XX-XXXX 12/10/88

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

MAJOR RODNEY L. LINK, XXX-XX-XXXX 11/5/88
MAJOR KURT W. ROELOFFS, XXX-XX-XXXX 12/3/88

MEDICAL CORPS

To be lieutenant colonel

MAJOR MICHAEL R. CONGER, XXX-XX-XXXX 12/5/88

DEPARTMENT OF COMMERCE

WENDELL LEWIS WILLKIE II, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE, VICE ROBERT H. BRUMLEY II, RESIGNED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHN L. BALLANTYNE III, XXX-XX-XXXX U.S. ARMY.

CONFIRMATION

Executive nomination confirmed by the Senate March 9, 1989:

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM J. BENNETT, OF NORTH CAROLINA, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

REJECTION

Executive nomination rejected by the Senate March 9, 1989:

DEPARTMENT OF DEFENSE

JOHN GOODWIN TOWER, OF TEXAS, TO BE SECRETARY OF DEFENSE.